

FINAL DRAFT
May 25, 1983

COASTAL ZONE
INFORMATION CENTER

MANAGEMENT SYSTEMS

FOR THE TOWN OF ATLANTIC BEACH

- (A) ZONING ORDINANCE
- PLANNED UNIT DEVELOPMENT ORDINANCE
- (B) SUBDIVISION REGULATIONS

Presented to the Town Board
by the Planning Board

Technical Assistance by
Coastal Consultants, Ltd.

The Preparation of this report was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

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THE MANAGEMENT SYSTEM: AN OVERVIEW

The Management System set out in the following pages is an implementation of the policies of the Land Development Plan approved by the Town of Atlantic Beach in 1981. Those policies are set out in pages 70 to 99 of the Plan.

The basic thrust of those policies can be described as follows:

- (1) Increase the rate of growth of the prior ten years;
- (2) Redevelop poorly developed and blighted areas;
- (3) Protect the remaining unique and sensitive features of the Town, the maritime forest and the secondary dunes;
- (4) Put in place a public sewer system;
- (5) Relate development capacity to the capacity of the natural system;
- (6) Make the entire system more rational.

In response to these goals and objectives the Town has sought in its Management System to encourage the redevelopment of the poorly developed and blighted areas by increasing the lot cover and density of these areas, by providing for greater intensity of use, and by encouraging redevelopment through Planned Unit Development, which has a greater potential for addressing road design and providing public or regional waste treatment. The Town has shown a preference for preserving unique and sensitive natural features by establishing low densities and small lot cover allowances. A scale of intensity has been tied to the relative capacities of the natural system. The rationality of the system has been improved by recognizing broad concepts, such as the grouping of uses. In all, the new ordinances, together with the pursuit of redevelopment and the implementation of a public sewer system, should move the Town aggressively towards the design envisioned in the 1981 Land Development Plan.

ZONING ORDINANCE

AND

PLANNED UNIT DEVELOPMENT

TOWN OF ATLANTIC BEACH

ZONING ORDINANCE
TOWN OF ATLANTIC BEACH (1983)

Article I

Section 101. Preamble.

An ordinance establishing comprehensive zoning for the Town of Atlantic Beach in accordance with North Carolina General Statutes, Chapter 160A, Article 14.

Section 102. Title.

This ordinance shall be known as "The 1983 Zoning Ordinance of Atlantic Beach."

Section 103. Jurisdiction.

These regulations shall govern the use and development of all lands within the corporate limits and the extraterritorial planning jurisdiction of the Town of Atlantic Beach as shown on "The Official Zoning Map of Atlantic Beach."

Section 104. Purpose.

The purpose of this regulation is to assist in implementing the policies and objectives of The 1980 Land Development Plan of The Town of Atlantic Beach. The purpose of this ordinance is to guide growth and redevelopment in a manner that will best promote the health, safety and general welfare of the people. This ordinance purports to accommodate through development and redevelopment all of the growth anticipated during the planning period, while recognizing the varying limitations of the land to support growth and the desire to conserve some of the Town's attractive natural features, and the commitments the Town has made to existing developments. This ordinance provides efficiency and economy in the process of development.

Section 105. Conformity Regulation.

Except as provided in this ordinance:

(a) Conformity of Building and Land. No building, structure, or premises shall be used or occupied except in conformity with the regulations of this ordinance; and, no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations of this ordinance and pursuant to a valid zoning permit, special use permit or planned unit development permit issued by the Town.

(b) Conformity of Building. No building, structure or premises shall be erected, altered or used so as to produce greater heights, smaller yards or less occupied area except in conformity with the regulations of this ordinance and pursuant to a valid zoning permit, special use permit or planned unit development permit issued by the Town; and, no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

(c) Conformity of Open Space. No yard, court or open space, or part thereof shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under the ordinance.

(d) Conformity of Pre-development. No land shall be cleared or prepared for development in such a way that such land when cleared or prepared shall not conform or be less conforming with the provisions of this ordinance.

Section 106. Permits.

(a) Prior to undertaking any action which would require the possession of a permit as set out in Section 105 of this ordinance, the developer or owner of the lot whereon the activity will be undertaken shall file with the Town on such form as specified by the Town an application for a zoning permit, special use permit or planned unit development permit.

(b) The applicant shall describe in full any and all activity he proposes to undertake and provide such additional information as the Town deems necessary to make a determination if the letter and spirit of this ordinance is and will be complied with.

(c) A zoning permit, special use permit or planned unit development permit will be issued to the applicant following a demonstration by him that his proposed undertaking will not violate the regulations of this ordinance.

Section 107. Consent To Enter Land.

All applicants for zoning permit or non-conformity certification by virtue of their submitting an application specifically authorize the Building Inspector or other authorized Town personnel to enter upon their lands for purpose of analyzing or checking the information.

Section 108. Zoning Permit And Other Laws And Permits.

The processing and issuance of a zoning permit is separate and apart from the issuance of any other Town, County or State or Federal permit. A zoning permit is not a building permit or authority to build, nor is it a CAMA permit authorizing development. Applicants are responsible for obtaining all necessary permits. The standards in this ordinance attempt to take notice of other land oriented regulations, however, some differences are inevitable.

Article II

Section 201. Definitions.

(1) Bulkhead. A device composed of material and constructed in such a manner as to be sufficient to reasonably control erosion landward fo the device for a lengthy period of time. Materials and construction practices are deemed sufficient where they meet standards set out by the Army Corps of Engineers and The North Carolina Department of Natural Resources and Community Development.

(2) Edge of Water. The furthest extent landward of the water during the months of April and May (frequently the wettest months.) The Building Inspector may constructively establish this line based on his familiarity with the water body where determinations must be made in months other then April or May.

(3) First Line of Vegetation or Vegetation Line. The southernmost line connecting a series of points establishing the southernmost extent of mature vegetation on the lot and its adjoining lots.

(4) Water Dependent Use. A structural or non-structural use which is reliant on a close location to the waterway for its existence, including bait and tackle shops, fishing piers, boat storage facilities, docks.

(5) Building. See structure.

(6) Home Occupations. Any use conducted ntirely within a dwelling and carried on exclusively by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, provided that not over twenty-five (25%) per cent of the total floor space of the structure is use for home occupations.

(7) Dwelling, Multiple. A building or portion thereof used or designed as a residence for two or more families living independently of each other.

(8) Dwelling, Single Family. A building or portion thereof used or designed as a residence for one family, only.

(9) Family. A number of individuals living together as a single housekeeping unit.

(10) Lot. A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, area, yards, open space and other provisions of this ordinance.

(11) Structure. Anything constructed or erected, the use of which requires location of the land, or attachment to something having a permanent location on the land.

(12) Special Use. A use that is not permitted as a right, but which may be permitted providing the provisions of Article VI of this ordinance is specifically complied with.

(13) Street. A thoroughfare which affords the principal means of access to abutting property, and including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley.

(14) Structural Alteration. Any change in the structure of the building other than the repair or replacement of the supporting members of the building.

(15) Variance. A relaxation of the regulations of zoning ordinance which may be granted pursuant to Section 804 of this ordinance.

(16) Yard. The area encompassed by setins and setbacks and which is the minimum open space required for a lot with a building. Said open space is open space only if it is unoccupied and unobstructed from the ground upward, except by trees or shrubery or as otherwise provided.

(17) Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incident and subordinate to the principal use or structure. A building in which no business is conducted and which is not used as a dwelling.

(18) Hotel. A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guest or tenants, in which five or more rooms are furnished for the accommodation of such guests; and having or not having one or more dining rooms, restaurants, or cafes, where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms, restaurants, or cafes, if existing, being conducted in the same building or buildings in connection therewith.

(19) Lot of Record. A lot which is part of a subdivision recorded in the office of the Register of Deeds, Carteret County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(20) Mobile Home. A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels and arriving at the site where is it to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations including, but not listed to, location on jacks or other temporary or permanent foundations. Recreational vehicles shall not be considered a mobile home.

(21) Mobile Home Park. Any site or tract of land upon which are located two (2) or more mobile home spaces which are to have mobile homes occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such service.

(22) Parking Lot. An area or plat of land used for the storage or parking of vehicles.

(23) Recreational Vehicle. A wheeled vehicular portable structure, built or erected on a chassis, designed for use as a temporary dwelling for travel and/or recreational purposes, having body width not exceeding ten (10) feet and a length not exceeding 32 feet. This includes truck mounted campers, tent campers, travel trailers, motorhomes, or any astructure mounted on auto, bus or truck body or chassis.

(24) Recreational Vehicle Park. Any site or tract of land upon which are located the minimum number of recreational vehicle spaces or land area required by this ordinance, regardless of whether or not a charge is made of such service.

(25) Restaurant. A building or part of a building used or designed for the serving of food for compensation on the premises.

(26) Minor Public Utility Facility. A public utility use that is not a major public utility facility.

(27) Major Public Utility Facility. A public utility facility which is not typically found on the majority portion of residentially developed lots in Atlantic Beach at the time this ordinance was adopted.

(28) Retail Sales Store. A structure in or from which principally goods and merchandise, as opposed to services, are offered for sale directly to the public.

(29) Entertainment Facility. A structure in which the principal activity is the business of charging an admission or use fee for the operating or watching of games, diversions or amusements; and/ or, which is in the business of selling, for consumption on the premises, alcoholic beverages.

(30) Public Buildings. A structure used or intended for use for a governmental or institutional purpose.

(31) Light Activity Service. A structure which is used for business purposes and which generates a low level of noise, dust, fumes and traffic and which is not included in the definition of Retail Sales Store.

(32) Heavy Activity Service. A structure which is used for business purposes and which generates a high level (or greater than low level) of noise, dust, fumes, and traffic and which is not included in the definition of Retail Sales Store.

(33) Parking Space. An area of 162 square feet with a minimum width of 9 feet and a minimum depth of 18 feet. A parking space shall be constructed to sufficiently support and accommodate the ingress and egress of an automobile.

(34) Vegetated Buffer. A buffer of vegetation located within the setback or setin space of a lot and consisting of natural vegetation, either shrubs or trees, of a height when planted of three feet or higher and which when given a growth of five years will totally block off the view of the building on the lot at an elevation from anywhere on the common property line at a height of six feet.

The following uses are presumed to belong to the use category

designated. (RSS-Retail Sales Store; LAS-Light Activity Service; HAS= Heavy Activity Service; EF-Entertainment Facility; M-Motel PB-Public Building; R-Restaurants;)

<u>Use</u>	<u>Use Category</u>	<u>Use</u>	<u>Use Category</u>
Bakery	HAS	Library	PB
Bank	HAS	Liquor Store	HAS
Barber Shop	LAS	Marinas	Marinas
Beachware Sales	RSS	Minature Golf	EF
Beauty Shop	LAS	Mobile Home Park	Mobile Home Park
Blueprinting Shop	HAS	Motel	M
Book Store	RSS	Motor Court	M
Boat Sales Service	LAS	Music studio	HAS
Bowling Lane	HAS	Newspaper Store	RSS
Bus Line Station	HAS	Novelty Shop	RSS
Chamber of Commerce	LAS	Offices	LAS
Churches	HAS	Parcel Delivery	HAS
Clubs	LAS	Parking Areas	HAS
Accounting Office	LAS	Pawnbroker	RSS
Advertizing Agency	LAS	Photography Studio	LAS
Animal Hospital	HAS	Post Office	HAS
Answering Service	LAS	Public Utility Mark	RSS
Antique Shop	RSS	Real Estate Agency	LAS
Appliance Repair Shop	LAS	Recreational Fac	EF
Arcades	EF	Restaurants	R
Art Museum	LAS	Savings & Loan	HAS
Auditorium	PB	Schools	PB
Automatic Laundry	RSS	Seafood Market	HAS
Automobile Sales	RSS	Shoe Repair	LAS
Auto Service Repair	HAS	Sporting Goods Store	RSS
Automobile Wash	RSS	Tailor	LAS
Fishing Tackle Shop	RSS	Taxi Cab Station	LAS
Fishing Pier	PB	Theatre	PB
Flower Shop	RSS	Tire Recapping	HAS
Food Store	RSS	Travel Bureau	LAS
Freezer Locker	LAS	Trailer Sales	LAS
Gift Shop	RS	Upholstery Shop	HAS
Golf Driving Range	EF		
Greenhouse	LAS		
Guesthouse	LAS		
Hardware Store	RSS		
Hobby Shop	LAS		
Hospital	HAS		
Hotel	M		
Ice Cream Parlor	RSS		
Insurance Office	LAS		
Interior Decorating Of	LAS		
Jewelry Store	RSS		
Kiddy Rides	EF		
Leather Goods Store	RSS		

Article III

Section 301. Establishment of Districts.

For purpose of this ordinance the Town of Atlantic Beach is hereby divided into the following districts:

- | | |
|---------------------------------|----|
| (1) Oceanfront Commercial | OC |
| (2) Oceanfront Residential | OR |
| (3) Oceanfront Historic | OH |
| (4) Residential Unconstrained | RA |
| (5) Residential Poor Soils | RB |
| (6) Residential Maritime Shrub | RC |
| (7) Residential Secondary Dunes | RD |
| (8) Residential Wetlands | RE |
| (9) Soundside Commercial | SC |
| (10) Resort Commercial | RC |
| (11) General Commercial | GC |

The boundaries of the district are shown on the "Official Zoning Map of Atlantic Beach" which map with all explanatory matter thereon, shall be deemed a part of this ordinance.

Section 302. Rules For Interpretation of District Boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Unless otherwise specifically indicated, where district lines are indicated on the zoning map as approximately following the center line of a street, highway, railroad right-of-way, utility easements, stream or river bed, or of such lines extended, then such lines shall be construed to be such district boundaries.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) District boundaries that are approximately parallel to the center lines of streets, highways or railroads, or right-of-way of some creeks, rivers, or other water bodies shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

(4) Boundaries indicated as approximately following the corporate limits shall be construed as following the corporate limits.

(5) If a district boundary divided a lot, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than one hundred (100) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.

(6) Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(7) In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

CORRECTION SHEET

Zoning Ordinances

1. Title page changed the date.
2. Section 108 to 107 and 109 to 108.
3. Section 201 (18) Hotel-Revive old definition.
4. Section 201 (25) Restaurant-delete clause "but not including a drive-in restaurant.
5. Section 201 (33) Change numbers to 162 square feet, width 9 feet and depth of 18 feet.
6. Section 202 Add R-Restaurant to top of use chart.
7. Section 302 (5) revive old definition.
8. Section 331 (a) Add "or use" where structure is stated.
9. Section 401 Change "any" to "all".
10. Section 504 (No Change).
11. Section 512 (No Change).
12. Section 514 (No Change).
13. Section 612 (Rejected).
14. Section 621 (f) Add after review "at public hearing".
15. Section 621 Entire section renumbered.
16. Section 621 (e)(2) insert comma between fire and safety.
17. Comments. The Town is planning for public sewer. Plans for public sewer have been thwarted at State and Federal level. The Town needs to grow and prefers that growth be accommodated by regional package plants. A couple years ago, the Town was told to pursue package plants as most feasible alternative by OCM officials.
18. Change section 405 to 406 and 406 to 407.
19. Add a new section 405 "Presumptive Parking Standards.

Subdivision Regulations

1. Section 9-4011 Sketch Plan is essential part of process.
2. Section 9-4011 (2)(c) Add "review" between cost of and by the Town.
3. Section 9-4011 (23) Add after layout "an environmental impact statement may be required.
4. Section 9-4011 (3)(b) Add after "by the Board of Commissioners" the following "based on an independent estimate by a qualified contractor."
5. Section 9-4012 (1) Delete "depending on the proposed lot sizes."

Section 303. OC Oceanfront Commercial District.

(a) General description and purpose of this district.

The oceanfront hazards and attractions are set out in § 304. Commercial development on the oceanfront may serve a valuable public purpose in affording a significant portion of the public access to the ocean on an occasional basis. Several uses particularly proved this type access: motels, restaurants, entertainment facilities. The problems with these uses arise from the nature of the structures accommodating these uses, specifically the structures are often steel or concrete and immovable. As the beach migrates these structures can pose conflicts with public rights to the beach and can involve local government in costly expenditures to maintain the existing shoreline.

(b) Permitted Uses.

- (1) Motels and Hotels
- (2) Restaurants
- (3) Bathhouses
- (4) Piers and Docks

(c) Special Uses.

- (1) Parking Lots.
- (2) Entertainment Facilities.
- (3) Public Buildings
- (4) Retail
- (5) Planned Unit Development.

(d) Special Feature Requirement.

(1) All buildings shall comply with CAMA regulations, 15 NCAC 7H, concerning setback, piling requirements and other building features.

(2) Lot owners are encouraged to maintain the integrity of the frontal dune system. No structure shall be allowed to encroach into the area described

as the frontal dune. Each lot owner is encouraged to keep his frontal dune vegetated and connected with the frontal dune of adjoining lot owners. Where dunes have been destroyed or damaged, or are no longer in existence, they are encouraged to be constructed or rebuilt within a reasonable period of time. The Town will assist with plans for sand fencing and revegetation.

(3) Vegetated buffers shall be established between an commercial structure and a neighboring residential structure or lot-zoned for residential use.

Section 304. OR Oceanfront Residential.

(a) General description and purposes of this district.

The oceanfront is highly valued for its scenic quality and recreational opportunities. This same feature makes it a dangerous place to live. Property here is likely to be heavily damaged by wind and water during storms. This property also bears the burden of affording reasonable access to the beach for the public.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(d) Dimensional Requirements.

See § 399.

(e) Special Feature Requirements.

(1) All buildings shall comply iwth CAMA regulations, 15 NCAC 7H, concerning setback, piling requirements and other building features.

(2) Lot owners are encouraged to maintain the integrity of the frontal dune system. No structure shall be allowed to encroach into the area described as the frontal dune. Each lot owner is encouraged to keep his frontal dune vegetated and connected with the frontal dune of adjoining lot owners. Where dunes have been destroyed or damaged, or are no longer in existence, they are encouraged to be constructed or rebuilt within a reasonable period of time. The Town will assist with plans for fill, sand fencing and revegetation.

Section 305. OH Oceanfront Historic.

(a) A significant part of the heritage and atmosphere of the Town is shaped by the quality development that occurred on the oceanfront prior to 1950. The Town wants to recognize and help reserve the integrity of this area. It is anticipated that this zone will later be affected by an Historic District Ordinance.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

None

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

(1) All buildings shall comply with CAMA regulations, 15 NCAC 7H, concerning setback, piling requirements and other building features.

(2) Lot owners are encouraged to maintain the integrity of the frontal dune system. No structure shall be allowed to encroach into the area described as the frontal dune. Each lot owner is encouraged to keep his frontal dune vegetated and connected with the frontal dune of adjoining lot owners. Where dunes have been destroyed or damaged, or are no longer in existence, they are encouraged to be constructed or rebuilt within a reasonable period of time. The Town will assist with plans for fill, sand fencing and revegetation.

Section 306. RA Residential Unconstrained District.

(a) This district is typified by existing moderate to high density residential development or by undeveloped lands which possesses few, if any, significant constraints to development, including but not limited to poor soils for sewage treatment, flood hazard, dune or dune migration, maritime or other forest, woods or shrubs areas, and wetlands.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(2) Mobile Home Parks and Recreational Vehicle Parks

(d) Dimensional Requirements.

See § 399.

(e) Special Feature Requirements.

None

Section 307. RB Residential Poor Soils District.

(a) This residential district is primarily characterized by poor soils for septic systems or waste disposal. One of the principal purposes of this district is to protect the estuarine system from degradation arising from the injection of poorly treated wastes. This district establishes large lot sizes consistent with poor soils and imposes requirements on cover to address problems of sedimentation and erosion.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

(1) All waste treatment systems will be placed as far as possible from the edge of water.

Section 308. RC Residential Maritime Shrub District.

(a) This residential district is characterized by the presence of maritime forest or other barrier island vegetation (woods or shrubs). This vegetation is unique to barrier islands and is an important part of the image and history of Atlantic Beach. Furthermore, it is an attractive feature for growth and development. The Town wishes to preserve the integrity of the system while making reasonable allowance for development. Restrictions on development focus on large lot size and cover requirements.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

None.

Section 309. RD Residential Secondary Dunes District.

(a) This district is characterized by large secondary or unconsolidated dunes. Dunes, as a natural feature, form an important part in the history of development of barrier island and serve a valuable function in breaking wind and storm action. The Town wishes to preserve that which remains of this unique land mass. Development on dune sands has frequently resulted in crumbling roads and occasional buried houses. The purpose of this district is to conserve this feature and prevent unnecessary local and private expense.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

(1) All cut and fill plans must be specifically approved and stated in the permit. No cut and fill or land disturbing activity will be allowed to destroy the integrity of the dune.

(2) A vegetation plan may be required where on the dune may create a hazard.

Section 310. RE Residential Wetlands District.

(a) This district is typified by wetlands as defined by the North Carolina Department of Natural Resources and Community Development, 15 NCAC 7H. The area may include hammocks or elevated spots and some non-wetland areas near the boundaries of other districts. Wetlands are not stagnant but mobile. Due to State and Federal regulations development is probably not possible in most of this district. In the event suitable land is found for development, the purpose of this district is to establish densities and other regulations which will recognize the importance of this natural feature.

(b) Permitted Uses.

(1) Single Family Dwellings.

(c) Special Uses.

(1) Planned Unit Development

(2) Marinas

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

(1) No fill shall be placed in area identified as wetlands.

(2) No septic systems shall be allowed in this district.

Section 311. SC Soundside Commercial District.

(a) The purpose of this district is to provide adequate land and give priority to uses dependent upon close proximity to water.

(b) Permitted Uses.

(1) Piers and Docks.

(c) Special Uses.

(1) Marinas

(2) Hotels and Motels

(3) Restaurants

(4) Entertainment Facilities

(5) Retail Stores

(6) Light Activity Service

(7) Planned Unit Development

(d) Dimensional Requirements.

See § 399

(e) Special Feature Requirements.

(1) All waste treatment systems will be placed as far as possible from the edge of water.

(2) All uses must be water dependent.

Section 312. RC Resort Commercial District.

(a) The purpose of this district is to provide an area where businesses and services associated with a beach resort community can locate.

(b) Permitted Uses.

- (1) Motels and Hotels
- (2) Restaurants
- (3) Public Buildings
- (4) Retail Sales Store
- (5) Light Activity Service

(c) Special Uses.

- (1) Entertainment Facilities
- (2) Parking Lots
- (3) Major Public Utility Facility
- (4) Planned Unit Development

(d) Dimensional Requirements.

See § 399.

Section 313. GC General Commercial District.

(a) The purpose of this district is to recognize suitable areas for the general commercial needs of the Town.

(b) Permitted Uses.

- (1) Restaurants
- (2) Public Buildings
- (3) Retail Sales Store
- (4) Light Activity Service
- (5) Parking Lots.

(c) Special Uses.

- (1) Heavy Activity Service
- (2) Light Industrial Use
- (3) Major Public Facility Use
- (4) Wholesale Stores
- (5) Storage Facilities
- (6) Motels and Hotels
- (7) Entertainment
- (8) Planned Unit Development

(d) Dimensional Requirements

See § 399.

Section 321. Uses Permitted In All Districts.

The following uses are permitted in all districts provided they comply with the requirements of the district in which they are located:

- (1) Home Occupations
- (2) Accessory Structures
- (3) Signs (Providing they comply with the provisions of Article V of this Ordinance.)

Section 322. Structures And Uses Exempted From Application Of This Ordinance.

- (1) Minor Public Utility Uses

Section 323. Exemptions.

The following uses or structures are exempted from setin and setback requirements in the districts:

- (1) Curbing
- (2) Drainage Systems
- (3) Driveways

Section 331. One Structure Per Lot.

(a) Only one structure or use is permissible on any buildable lot, except that the following structures or uses shall not be counted when determining whether there is more than one structure or use on a particular lot:

- (1) Minor Public Utility Uses
- (2) Septic Systems and Wells
- (3) Accessory Buildings
- (4) Home Occupations
- (5) Parking Areas
- (6) Signs

(b) The uses in (a) above shall not be included in determining if minimum floor space is met.

(c) The uses in (a) above will be considered as "cover" in determining the amount of land covered by impervious surfaces or cover. Such structures must comply with setbacks and setbacks and other requirements.

Section 399. Dimensional Requirements.

The following table sets out the dimensional requirements which are required to be met in each district (see subsection (d) in each.)

(a) Lot area. The minimum area in square feet required for siting a structure.

(b) Lot width. The minimum distance between the two side lot lines measured in feet at the front set back line.

(c) Front yard. The minimum distance from the road right of way to the closest point of the building or intended building site. (Set back)

(d) Side yard. The minimum distance from the side property line to the closest point of the building or intended building site. (Set in)

(e) Rear yard. The minimum distance from the rear property line to the closest point of the building or intended building site.

(f) Setback from Water. The minimum distance (on the ocean) from the vegetation line to the closest point of the building or intended building site; (on the Waterway or canal lots) from edge of the water or the bulkhead to the closest point of the building or intended building site.

(g) Lot coverage. The maximum percentage of the lot which shall be covered by development uses. Development uses shall include structures, parking and driveways, sewage systems and on-lot sewage disposal areas.

(h) Floor space. The minimum square footage required for a structure.

(i) Building height. The maximum height in feet of any building, and being the vertical distance measured from the average elevation of the proposed finished grade of the structure to the highest elevation of the structure.

(j) Dimensions:

DISTRICT	LOT AREA	LOT WIDTH	FRONT YARD	SIDE YARD	REAR YARD	SETBACK		LOT COVER	FLOOR SPACE	BUILDING HEIGHT
						FROM WATER				
OC	15,000	125	25	25	NA	60+	65%	750	50	
OR	5,000	75	15	7	NA	60+	50%	750	50	
OH	10,000	75	15	7	NA	60+	35%	1250	35	
RA	5,000	75	15	7	20	50+	65%	750	35	
RB	10,000	125	15	15	20	MAX	25%	750	35	
RC	15,000	125	15	15	20	NA	15%	750	50	
RD	20,000	125	15	15	20	NA	10%	750	35	
RE	200,000	125	15	15	20	MAX	2%	750	35	
SC	15,000	125	15	15	NA	MAX	35%	750	50	
C	15,000	200	25	25	25	NA	80%	750	50	
RC	15,000	200	25	25	25	NA	80%	750	50	

NOTE: Multi-family dwellings are allowable through Planned Unit Development, only.

Article IV

Off Street Parking and Loading

Section 401. General Requirements.

Off street parking space in the amount specified by this article shall be provided for all uses allowed in this ordinance.

Section 402. Exceptions.

Existing uses provided they are not enlarged or increased after the adoption of this ordinance shall be excepted from the parking provisions of this ordinance until January 1, 1986.

Section 403. Parking Plan.

Each applicant for a zoning permit, special use permit or planned unit development permit shall include information on peak projected use and parking plans, including size and location of spaces, lots and ingress and egress with each application.

Section 404. Spaces Required.

The number of spaces required per use of a lot and/or structure shall be as follows:

One parking space shall be provided for each two persons being at or in the structure, and on the lot at period of peak use.

Section 405. Presumptive Parking Standards.

The following uses shall be presumed to require the following number of spaces for parking uses:

<u>USE</u>	<u>PRESUMPTIVE OFF-STREET PARKING REQUIREMENTS</u>
Child Care Center	One (1) space for each adult attendant, plus two (2) off-street spaces for loading and unloading.
Church	One (1) space for each four (4) seats in the sanctuary.
Driving Range	One (1) space for each driving tee.
Elementary School	One (1) space for each vehicle owned or operated by the school, plus two (2) spaces for each faculty member and administrative office.
Fire Station	One (1) space for each employee and one (1) space for each three (3) volunteer personnel on a normal shift.
Funeral Home	One (1) space for each four (4) seats in the chapel or parlor, plus one (1) space for each employee.
Golf Course	Four (4) spaces for each green, plus requirements for any other associated use.
Hotel, Motel, or Motor Court	One (1) space for each room to be rented, plus one (1) additional parking space for each three (3) employees, plus requirements for any other use associated with the establishment.
Indoor and Outdoor Commercial Recreation	One (1) space for each one hundred and eighty (180) square feet of floor or ground area, or one (1) space for each four (4) seats available to patrons, whichever is needed.
Industrial Manufacturing and Wholesale Uses	One (1) space for each two (2) employees on the largest shift; one (1) space for each member of the managerial or office staff one (1) visitor parking space for each ten (10) persons on the managerial staff, and one (1) space for each vehicle used directly in the conduct of the business.
Junior High School	One (1) space for each vehicle owned or operated by the school, plus three (3) spaces for each faculty member, plus one (1) space for each five (5) seats in the auditorium or gymnasium.

Mobile Home Park	Two (2) spaces for each mobile home.
Nursing Home	One (1) space for each five (5) beds intended for patient use, plus one (1) space for each shift employee.
Office and Professional Building	One (1) space for each two hundred (200) square feet of gross floor space.
Office, Medical or Dental	One (1) space for each employee plus one (1) space for each examing room.
Planned Shopping Center	Five and one-half (5½) spaces for every one thousand (1,000) square feet of gross leasable floor area.
Public or Private Club	One (1) space for each two hundred (200) square feet of gross floor space.
Public Utility Building	One (1) space for each employee.
Residential	Two (2) spaces for each dwelling unit.
Restaurant	One (1) space for each three (3) seats, plus one (1) space for each two (2) employees.
Retail Store	One (1) space for each two hundred (200) square feet of floor area used for sales, plus one (1) space for each two (2) employees.
Sales and Service Establishments Not Listed Elsewhere, Which Deal With Customers On The Premises	One (1) parking space for each two hundred (200) square feet of floor area available to customers, plus one (1) space for each two (2) employees.
Senior High School	One (1) space for each vehicle owned or operated by the school plus seven (7) spaces for each faculty member, plus one (1) space for each administrative office.
Stadium	One (1) space for each four (4) spectator seat.

Section 406. Off-Lot Parking.

Parking spaces may be provided off the lot under the following conditions:

- (1) The parking lot is adjacent to the use lot, or
- (2) The lot is not adjacent but it is nearby and clearly designated specifically for the use of the structure claiming the space, or
- (3) The lot is provided in a public parking area by agreement with the City.

Section 407. Loading and Unloading Space.

Every building or structure used for business, trade or industry hereafter erected shall provide as indicated herein for loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or if there is no alley, to the street. For the purposes of this ordinance, an off street loading and unloading space shall have minimum dimensions of twelve (12) feet by sixty (60) feet and an overhead clearance of fifteen (15) feet in height above the alley or street grade.

Article V

Regulation of Signs

Section 501. Purpose.

This article or the zoning ordinance hereinafter may be known as "The Sign Ordinance of the Town of Atlantic Beach, North Carolina."

Section 502. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly referred by the context, the words and phrases defined in this article shall have the meaning indicated when used in this article.

(a) Sign. Any device visible to the general public but not limited to placards, billboards, handbills, balloons, banners, or any other things or instrumentalities used for the purpose of advertising, conveying a message or idea, giving directions, making a solicitation, or for any other purpose.

(b) Facing or Surface. "Facing" or "Surface" shall mean the surface or surfaces of the sign upon, against, or through which the message of the sign is displayed or illuminated.

(c) Illuminated Sign. "Illuminated sign" shall mean any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign proper.

(d) Erect. "Erect" shall mean to build, construct, attach, place, suspend, or affix.

(e) Alter. "Alter" shall mean any change including a change of design, change of message, or relocation of a sign, the permit for which did not authorize such change.

(f) Person. "Person" shall mean any person, persons, corporation, association, firm, partnership, trust, cooperative, or organization.

(g) Residential District. "Residential district" shall mean any of the following districts: R1, R2, R3, R02, R05, OR, and OH.

(h) Commercial District. "Commercial district" shall mean any of the following district: OC, SC, RC, and C.

Section 503. Exceptions.

The following signs are specifically excluded from this ordinance:

(1) Signs not exceeding two (2) square feet in area and bearing only: 1) property numbers, 2) post office numbers, 3) names of occupants of premises, and 4) other identification of premises not having any commercial connotation.

(2) Flags and insignias of any government, except where displayed in connection with commercial promotion.

(3) Legal notices, identification, information, or directional signs erected or required by governmental bodies.

(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving lights, or moving parts.

(5) Signs or less than four (4) square feet in area for the sole purpose of directing and guiding traffic and parking in commercial and recreational districts, but bearing no advertising matter.

(6) Temporary directional signs of more than three (3) square feet used during period of construction or redevelopment.

Section 504. Exceptions for Certain Signs.

The following signs shall be subject only to the provisions of Section 511, 512 and 505 of this article.

(a) Real estate signs not larger than one and one-half (1 1/2) feet by two (2) feet, or the equivalent in square inches, which advertise only the sale, rental or lease of the premises upon which said signs are located.

(b) Signs denoting the architect, engineer, or contractor when placed upon work under construction, and not exceeding one and one-half (1 1/2) feet by two (2) feet, or the equivalent in square inches.

(c) Professional and occupational signs denoting only the name and profession of an occupant in a commercial building, and not exceeding one (1) square foot in area.

(d) Bulletin boards, not over six (6) square feet in area for public, charitable or religious institutions when the same are located on the premises of said institutions.

(e) Memorial signs or tablets, names of buildings and date of erection when cut in masonry surface, or when constructed of bronze or other noncombustible materials and not exceeding one (1) foot by two (2) feet, or the equivalent in square inches.

(f) Traffic and other governmental signs.

(g) "No Trespassing", "Private Property" and similar signs not exceeding one (1) square foot in area.

Section 505. Sign Permit.

(a) No person shall erect, alter or relocate any sign without first obtaining a sign permit from the Town and making payment of the fees required by subsection (d) below, unless such sign is specifically excepted by Section 504 of this article.

(b) No sign permit shall be issued by the Town until an application on such form as shall be approved by the Town has been filed with the Town containing or having attached thereto the following information:

- (I) Name, address and telephone number of applicant.
- (II) Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- (III) One comprehensive layout of the design in color to include lettering and illustrating styles, and one black and white copy of the design plus two copies of plans and specifications, showing methods or construction and attachment to the building or structure.

(IV) Name of person erecting sign.

(c) It shall be the duty of the Building Inspector upon the filing of an application for a permit to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign. If it shall appear that the proposed sign is in compliance with all the requirements of this ordinance and all other ordinances of the Town, and meets all building and electrical codes of the Town, County and State, he shall then issue a sign permit.

(d) Every applicant, at the time of applying for a permit, under the provisions of this article, shall pay to the Town, an application fee for each sign as follows:

Wall sign	\$ 5.00
Hanging sign.	5.00
Projecting sign	5.00
Ground sign	25.00
Development sign.	5.00
Window sign	5.00

(e) All rights and privileges acquired under this ordinance are mere licenses revocable at any time by the Town.

Section 511. Regulations of Signs in Residential Districts.

(a) No sign shall be erected or maintained in any residential district except the following: Those signs erected by a governmental authority for orderly traffic control or other governmental purpose; real estate signs not exceeding one and one-half (1 1/2) feet by a two (2) feet, or equivalent in square inches, which advertise the sale, rental, or lease of the premises upon which said signs are located; or signs denoting the architect, engineer, or contractor(s) when placed upon work under construction and not exceeding one and one-half (1 1/2) feet by two (2) feet, or the equivalent in square inches. An attachment may not be added to such a sign if it has the effect of increasing the sign area to more than the prescribed limit.

(b) Any commercial sign erected in an residential district in conformity with

part (a) above shall face parallel to the street and shall be set back of the street right-of-way line. Only one (1) real estate sign shall be allowed on each lot and it shall be placed near the middle of the street side of the lot. Such sign shall be removed by its owner as soon as it is no longer needed. e.g. the property has been sold (sold shall be interpreted to mean that title has been conveyed), rented, or withdrawn from the market. The sign shall not remain in place with a "Sold" or other notation on it.

Section 512. Regulations of signs in Commercial Districts.

(a) Only the following kinds of signs, as more fully specified in subsequent Chapter this Ordinance, shall be erected or maintained in the commercial district, except as otherwise provided herein; wall signs, ground signs, hanging signs, projecting signs, window signs, development signs and temporary signs. Roof signs, pole signs, and mobile signs shall not be permitted.

(b) A sign shall be used only to identify the name and activity of the establishment, subdivision or redevelopment, or to advertise property for sale or lease.

(c) Only two (2) signs, other than window signs, shall be permitted to each business establishment.

(d) Illumination of any sign shall be only for the purpose of making the sign readable after dark. No oscillating, rotating, flashing, or gaudily colored lighting of signs shall be permitted.

(e) No sign shall be lettered, outlined or otherwise decorated with any reflecting paint, reflecting beads or prisms except those used on street right-of-way for the direction and control of vehicular traffic.

Section 513. General Restrictions and Limitations.

(a) No sign shall be erected or maintained unless it relates directly to the property on which it is situated or to activities conducted thereon.

(b) All signs must comply with the Building Code requirements of the County and State.

(c) No sign of any nature, except those erected by a governmental authority for orderly traffic control, providing directions to places of public interest and other governmental purposes shall be allowed to be erected in any public right-of-way.

Section 514. Poster, Advertising Flyers, Samples, etc.

It shall be unlawful for any person to advertise by distribution of samples or printed matter, by sign tacking or by tacking, pasting or tying on poles, posts, trees, buildings, fences or other structures within the Town, except as provided in Section 505 of this Ordinance.

Section 521. Definition of Wall Signs.

A wall sign as regulated by this article shall include any sign which is placed against a building or other structure and attached to the exterior front, rear, or side wall of such building or structure.

Section 522. Restrictions and Limitations of Wall Signs.

(a) Limitation on area. Wall signs shall be limited in area to fifteen (15) square feet except for development signs covered in Sections 571 to 581.

(b) No wall sign shall project beyond the ends or top of the wall to which it is attached.

(c) Obstruction of doors, windows or fire escapes. No wall sign shall be erected, located or maintained so as to prevent free ingress from any door, window or fire escape.

(d) No sign shall be painted directly on the wall, side, or structural part of any building, tank, fence, wall, or other structure not erected specifically as a sign.

Section 523 Construction of Wall Signs.

All wall signs shall be attached safely and securely to the building wall and shall be built of durable material.

Section 531. Definition of Ground Signs.

A ground sign as regulated by this article shall include any sign, supported by the ground or uprights or braces placed upon the ground, and not attached to any building.

Section 532. Restrictions and Limitations of Ground Signs.

(a) Area Limitations. No ground sign shall have a surface area of more than one hundred eighty (180) square feet on each side except for development signs covered in Article VII.

(b) Identification. Ground signs shall be used only for the purpose of identifying the facility on the premises or the subdivision or development.

(c) Height Limitation. It shall be unlawful to erect any ground sign that is more than nineteen (19) feet high measured from natural level of the ground upon which it is supported.

(d) Width Limitation. It shall be unlawful to erect any ground sign the total width of which is greater than twelve (12) feet.

(e) Setback Line. No part of a ground sign shall encroach on, into, or over a street or public right-of-way.

(f) Not more than one (1) ground sign shall be allowed for a shopping center, a place of business not in a shopping center, a motel, a condominium complex, or any comparable activity.

Section 533. Construction of Ground Signs.

All wood materials used shall be treated to inhibit decay and insect damages and signs shall be built of durable material.

Section 541. Definition of Hanging Signs.

A hanging sign as regulated by this article shall include any sign suspended from a brace, arm, ceiling, or other overhead support.

Section 542. Restrictions and Limitations of Hanging Signs.

- (a) A hanging sign may not exceed two square feet in area.
- (b) Hanging signs shall be installed at a height of not less than seven (7) feet not more than ten (10) feet above ground level.
- (c) A hanging sign may be used only to identify a place of business.

Section 543. Construction of Hanging Signs.

- (a) Hanging signs shall be made of metal, plastic or wood.
- (b) All hanging signs shall be attached safely and securely.

Section 551. Definition of Projecting Signs.

A projecting sign as regulated by this article shall include any sign which is attached to a building and extends beyond the line of the said building or beyond the surface of that portion of the building to which it is attached which shall be understood to include the roof thereof.

Section 552. Restrictions and Limitations of Projecting Signs.

- (a) A projecting sign may not exceed two (2) square feet in area.
- (b) Projecting signs shall be installed at a height of not less than seven (7) feet nor more than ten (10) feet above ground level.
- (c) A projecting sign shall be used only to identify the name of a place of business.

Section 553. Construction of Projecting Signs.

- (a) Projecting signs shall be of metal, plastic or wood.
- (b) All projecting signs shall be mounted at a right angle to the building

or surface to which they are attached. All projecting signs shall be attached safely and securely.

Section 561. Definition of Window Signs.

A window sign is any sign appearing in, on, or through a window of a place of business and visible from outside. It may be printed on the window, affixed to the window from the inside or outside, or mounted, erected or hung behind the window on the inside. It does not include merchandise displays with small price markers. It, however, does include announcements of sale, clearances, special promotions, discounts, and the like.

Section 571. Definition of Development Signs.

A development sign may be either a ground or a wall sign that is erected for a limited period for the purpose of identifying a development project or a building project.

Section 572. Restrictions of Development Signs.

(a) A development sign as defined in Section 571 may be erected only in an area where new construction of a number of units is underway or about to begin.

(b) A development sign shall not exceed twenty (20) square feet in area. It may not extend more than ten (10) feet above ground level.

(c) A development sign shall not be erected more than thirty days before construction of a project is scheduled to commence, and it must be removed as soon as the project has been completed and the property has been sold, leased, or occupied. The sign permit, however, shall expire in one (1) year, but shall be subject to renewal.

Section 573. Construction of Development Signs.

Construction standards are the same as for wall and ground signs (Section 521 to 539), depending on the type of sign erected.

Section 581. Definition of Mobile Signs.

A mobile sign is a sign that may be moved from place to place. It may be on wheels, a stand, or other movable support and it may display a single message or changeable messages.

Section 582. Restrictions of Mobile Signs.

No mobile sign, other than those covered by Section 504 (a), shall be allowed within the Town limits. However, a sign on a commercial vehicle that merely identifies the name of the owner or operator is permitted.

Section 591. Removal of Signs.

(a) With respect to commercial signs covered by Section 511 above, the Town may summarily remove, without notice, any such sign if it does not conform in every respect with the provisions of Section 511. The owner of the removed sign may reclaim the sign at the Town Hall upon the payment of ten dollars (\$10.00) to cover the cost of its removal.

(b) If the Town shall find that any sign regulated by this ordinance (other than a sign covered by subsection (a) above) is unsafe and insecure, is in disrepair, and detrimental to the community, is a menace to the public, or has been changed in any way from the original design, or has been constructed or is being maintained in violation of the provisions of this Ordinance, the Town shall give written notice to the permittee or owner thereof, and if the person maintaining the sign fails to comply with the requirements of this Ordinance within thirty (30) days after such notice, such sign or other advertising structure may be removed by the Town at the expense of the permittee or owner of the property upon which it is located. The Town shall revoke a permit of any permittee or owner who refuses to pay costs so assessed. The Town may, without notice, summarily remove any sign which creates an immediate peril to persons or property.

(c) Any sign which no longer advertises any bona fide business conducted or product sold on the premises shall be removed within ten (10) days after written notification from the Town to the permittee or owner thereof, or the person occupying the premises upon which such sign is located. Upon failure to comply with such notice within the time specified, the Town shall cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property upon which the sign is erected or maintained. Further, the Town shall summarily remove, without notice, any sign erected in violation hereof on any town property, street right-of-way, pole or other structure belonging to a public utility.

Section 592. Application.

(a) New Sign. No new signs shall be erected unless the same meet the requirements of this ordinance.

(b) Alteration of Signs. No sign previously erected shall be altered in design or message, replaced, remodeled or re-located unless the same shall meet the requirements of this ordinance.

(c) Non-Conforming Signs. (1) Any sign which becomes non-conforming by virtue of the adoption of this ordinance shall be removed or made to conform within three (3) years after the date of adoption of this ordinance. (2) Any sign which becomes non-conforming by virtue of the adoption of any subsequent amendment to this ordinance shall be removed or made to conform within three (3) years of the date of the adoption of such amendment unless such amendment sets forth a different period of time.

Section 599. Enforcement.

The duty of enforcing the sign ordinance is specifically and expressly delegated to the Building Inspector of the Town. The Building Inspector is authorized to issue sign permits, in the name of the Town upon a determination by him that the proposed sign and its location as stated in the application conform with the requirements set out in this article.

Article VI

Special Use

Section 601. Purpose of the Special Use Permit.

Special use permits add flexibility to the zoning ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedure, property uses which would otherwise be undesirable in certain districts can be developed to minimize adverse effects that they might have on the surrounding properties.

Article 2 sets forth uses that may be established as a matter of right in each district and specifies various lot dimensions and space requirements that must accompany each established use. Some land uses, however, have a particular impact on the surrounding land that cannot be determined and controlled by general regulations. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development, their establishment shall not be as a matter of right but only after review and approval as hereinafter provided.

Section 602. Administration of Requirements of Special Use Permits.

Special use permits shall be issued or denied by the Board of Adjustment upon recommendation of the Town Building Inspector using the same procedure as with other zoning matters, except that the Town Building Inspector or Board of Adjustment may require the applicant to prepare additional information to enable them to make the decision. The procedure shall be as follows:

(a) The owner(s) shall submit an application for a special use permit to the Town Building Inspector. Such application shall include all the requirements pertaining to the meeting of the general and specific standards for development.

(b) The Town Building Inspector shall give notice of a public hearing, and following submittal by the property owner of all information required by said officer

and deemed necessary for the making of a recommendation and decision shall make a recommendation to the Board of Adjustment.

(c) The Board of Adjustment shall be allowed to affirm the recommendation or to reverse the same following the same procedure as set out in the enabling legislation for dealing with variances and appeals.

Section 603. General Standards.

In order to grant a permit for a special use the Board of Adjustment shall find:

(a) That the use will not materially endanger the public health, or safety if located where proposed and developed according to the plan as submitted and approved.

(b) That the use meets all required conditions and specifications.

(c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

(d) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town.

Section 604. Special Standards.

(a) Marinas

(1) Minimum land area	30,000 sq. ft.
(2) Minimum lot width	300 feet
(3) Minimum lot depth	100 feet
(4) Minimum lot side yard	30 feet
(5) Minimum front yard	35 feet
(6) Maximum building height	50 feet
(7) Maximum structure and parking area coverage	65 %

- (8) Minimum rear yard 20 feet
- (9) Minimum side yard on building above 30 feet in height 50 feet
- (10) Minimum yard where adjoining water 30 feet when building exceeds 30 feet or more in height

(b) Pedestrian Walkways and Bicycle Ridingways

- (1) Maximum width 8 feet
- (2) Minimum setback from any street or highway 25 feet
- (3) Where walkways and ridingway cross a major thoroughfare, a pedestrian controlled stoplight or a pedestrian overpass shall be installed.
- (4) All pedestrain walkways and ridingways shall be so planned and developed as to prevent the destruction of natural topography and vegetation.
- (5) Pedestrain walkways planned for usage during the hours of darkness shall be lighted with light fixtures which would blend into and complement the surrounding vegetation and natural surroundings during daylight hours.
- (6) Bicycle ridingways shall be closed during the hours of darkness..
- (7) No motorcycle, motorbike, motor scooters, go-kart or other similar machine shall be permitted on pedestrian walkways or bicycle ridingways.

Section 611. Mobile Home Parks.

(a) Except as provided in the non-conforming use section of this ordinance, mobile homes shall be allowed only in mobile home parks;

(b) Mobile Home Parks shall be developed only as a Planned Unit Development, and in accordance with and subject to the provisions of Section 621 of this ordinance;

(c) In addition to the above requirements, Mobile Home Parks shall meet the following requirements:

- (1) Each mobile home unit shall have a designated site or pad;
- (2) The minimum distance between designated sites or pad shall be 50 feet;
- (3) Each mobile home unit shall have direct access to street or road system within the Park;
- (4) Mobile home unit pads or sites shall be improved to provide an adequate area for the placement and anchoring of a mobile home, thereby securing the structure against uplift, sliding, rotating and/or overturning during high winds. Mobile homes shall be tied down in accordance with state and local regulations.

(d) The maximum density of mobile home units shall be the same as would be allowed for single family dwellings; parking requirements shall also be as set out for single family dwellings;

(e) In determining the amount of covered development space, the site or pad, the parking area and connecting area with the streets or roads of the Park, the wastetreatment area or on-lot sewage disposal area, the area of all buildings or structures, and other impervious surfaces shall be included in the definition of covered development space.

Section 612. Recreational Vehicle Park.

(a) Recreational Vehicles shall be allowed only in Recreational Vehicle Parks;

(b) Recreational Vehicle Parks shall be developed only as a Planned Unit Development, and in accordance with and subject to the provisions of Section 621 of this Ordinance;

(c) In addition to the above requirements, Recreational Vehicle Parks shall meet the following requirements:

- (1) Each Recreational Vehicle shall have a designated site or pad;
- (2) The minimum distance between designated sites or pads shall be 25 feet;
- (3) Each Recreational Vehicle site or pad shall access the street or road system within the Park;
- (4) Each Park shall have a central structure(s) that will provide separate toilet and bath or shower facilities for both sexes;
- (5) Each Park shall adopt and enforce adequate administrative regulations to insure that individual recreational vehicles are temporarily located within the Park and that the use of the Park by a particular vehicle is limited to no more than two weeks per year;

(d) The maximum density of recreational vehicle units shall be twice that allowed for single family dwellings; parking spaces shall be sufficient to accommodate at least two motor vehicles and one recreational vehicle per site or pad;

(e) (Same as Section 611 (e).)

Section 621. Planned Unit Development.

(a) Definition and Purpose. A planned unit development, PUD, is defined as the total development of one tract of land under one central control or ownership. Through PUD the Town desires to foster development of land that has a higher degree of consideration of physical features and natural constraints to development than would be possible under general zoning or subdivision regulations. PUD is expected to promote a more efficient use of the land, a higher level of amenities and more creative designs than would otherwise be possible.

(b) PUD and General Zoning and Subdivision Regulations. The standards in this article providing for PUDs are intended to accomplish the purposes of the land use plan and its implementation vehicles, the general zoning ordinance and the subdivision regulation; however, greater demands have been placed on the developer in the PUD article so that the provisions of this article must be exclusive for development electing to proceed using this method.

(c) Procedures for PUD Approval. The procedures for PUD approval shall be as set out in this article. This procedure is consistent with that provided for other special uses yet because of the magnitude of the expected action and the amount of discretion allowed, the Town selected a procedure that would leave the final approval with the Town Board of Aldermen.

(1) Application. The developer shall submit an application for a PUD to the Town Building Inspector on form(s) supplied by the Town. The application will address natural features, existing conditions and proposed development plan. This application will be accompanied by the following information: (All Mapping should be at a scale of 1"=50' or other approved scale.)

(a) Constraint Maps

(1) soil types

(2) topography (drainage and flood areas)

- (3) vegetation (both general cover in term of hardwood or pine trees and shrubs or brush, and specific types where they may be significant or unique)
 - (4) wetlands
 - (5) area of environmental concern
 - (6) existing structures, utility lines, etc.
- (b) an evaluation of the suitability of soils for development
 - (c) interpretive maps showing drainage and flood areas
 - (d) two or more rough, general maps showing proposed alternative developments, including:
 - (1) proposed street and circulation system
 - (2) location of residential and commercial building (the number of units should be indicated)
 - (3) recreational facilities
 - (4) open space (by type use)
 - (5) water, sewer system, fire hydrants, and drainage
 - (e) an assessment of the changes to the existing and/of natural system as a result of the proposed development
 - (f) a report addressing the impact on the fiscal resources of the Town and County, including additional tax revenues anticipated and additional costs from facilities and services for fire, police, solid waste, health, social services, water, sewer, shools, and streets
- (2) Application Review.
- (a) Within 30 days from submission of an application for a Planned Unit Development the Town Building Inspector shall review the application to determine if it is complete on its face.
 - (b) If he determines it is not complete, he shall return the application with an indication of preliminary deficiencies.
 - (c) If he determines it is complete, he shall notify the applicant of

such determination and he shall submit the application for review by relevant and participating Town, County and State agencies.

- (1) Reviewing agencies shall respond within thirty (30) days and shall indicate
 - (a) if the information is complete or what deficiencies exist
 - (b) if there are any anticipated adverse or beneficial impacts not identified by the developer
 - (c) If there are mitigation measures that might lessen the impacts
 - (d) if there is a preferred alternative
- (2) Where deficiencies in information are identified at any stage in the process, the applicant shall be notified and time period for processing the application will be stopped.

(d) The Town will process completely and approve, deny or conditionally approve the application for a permit for Planned Unit Development within 180 days.

(3) Applicant Conference. Following agency review, the Planning Board will schedule a meeting or meetings to raise alternative designs and to formally endorse the preparation of one type design.

(4) Preliminary Site Development Plan. Following official endorsement of a rough, general design, the developer shall prepare a preliminary site plan submitting the following information (All mapping should be at a scale of 1' = 50' or other approved scale):

- (a) a resubmission and revision of information submitted in the application
- (b) a development plan map showing
 - (1) location, size and type of structures, and approximate sizes and dimensions of lots.
 - (2) location and design of water and sewer systems, including fire hydrants

- (2) location, size and dimensions of open space
 - (3) location, dimensions of proposed road and circulation system, or off-street parking areas, loading and service areas, of access to public right-of-way, of pedestrian circulation system and proposed utility systems
 - (4) landscaping plans, including areas to be cut and filled, cleared and planted; drainage design
 - (5) location and dimensions of other features required to be shown on a case basis, such as school sites, recreation areas, beach access areas, public parks, etc.
- (c) a report analyzing the impacts on the existing and/or natural system as a result of the proposed development.
- (d) a report setting forth: a) a schedule of construction (phase and stages of development), b) a summary of quantitative data (1) total number and 2) type of dwelling units, 3) parcel size, 4) lot coverage; 5) densities, 6) amount of open space), c) a plan for the maintenance and ownership of structures and open space, and d) and analysis of design features used to reconcile the PUD with neighboring or adjoining property uses.

Upon submission of the information, to be referred to as the Preliminary Site Development Plan, the Planning Board shall set a date for hearing and review.

(5) Planning Board Action. The Planning Board shall review at public hearing the preliminary site plan and approve, conditionally approve, or disapprove it. In order to assist them in their review, the Town Building Inspector shall request that all administrative agencies in the Town file formal reports of the Site Development Plan analyzing the impacts relevant to them, the extent to which the Plan appears to have addressed these impacts and additional mitigation measures they recommend. The Town Building Inspector shall file a formal report

addressing the Plan and its impacts and alternative measures that might be used to mitigate impacts (if any). Following Planning Board action, the time period for processing the application shall be suspended pending resubmission of a preliminary or final site plan as the Planning Board indicates.

(6) Final Development Plan. The applicant shall submit to the Town Board a Final Development Plan addressing the changes required by the Planning Board. The Final Development Plan shall be prepared in sufficient detail to allow its recordation by the Register of Deeds. The Town Board shall determine if the Final Development Plan meets the requirements of this article and whether the changes comply with those required by the Planning Board. The Town Board shall approve, disapprove, or conditionally approve the application for a Planned Unit Development.

(d) Design Standards and Criteria. Instead of meeting general zoning dimensional and other requirements, Planned Unit Development shall comply with the following requirements:

- (1) The minimum parcel size shall be two acres.
- (2) The density of the entire parcel shall be no greater than the density of the underlying districts. For purposes of determining the allowable density of a parcel for residential development where the PUD will have other than residential uses, the Town shall reasonably allocate the commercial structures to a portion of the entire parcel and remove that acreage from computations dealing with the maximum density for residential structures.
- (3) The permitted uses shall be all those uses allowed in the underlying district, plus the following additional uses where adequate transition is provided to existing developments, namely

- (a) multi-family
- (b) light activity service
- (c) retail sales stores
- (d) motels and hotels
- (e) restaurants
- (f) public buildings
- (g) entertainment facilities
- (h) marinas

Adequate transition may include greater separation, vegetated buffers and other site design considerations than would otherwise be required.

- (4) The amount of lot cover shall not exceed the maximum amounts allowed for the underlying districts whereon the parcel is located. For purposes of determining lot cover, streets and roads shall be excluded from the definition of covered development space, provided the area of paved street surface does not exceed 10%, nor the right-of-way 25% of the non-wetlands area of the parcel. Area taken by sewage treatment facilities, including septic systems, and by parking, even where the space is dirt, gravel or unpaved, shall be considered covered development space.
- (5) No building or structure shall be located within 35 feet of any property line adjoining the parcel. No structure shall exceed 50 feet in height.
- (6) Buildings and structures within the PUD shall be reasonably located in position to one another so that probable noise, lights and other effects arising from the use of one structure shall not interfere unduly with the use of the other.

- (7) The internal transportation system within the PUD parcel shall be so set out so as to provide direct access to a major street without creating traffic in residential neighborhoods outside the development.
- (8) The public utilities within the PUD shall be designed to comply with the minimum requirements set out in the Subdivision Regulations for such facilities.
- (9) No building or structures shall be allowed in the wetlands or in an area prohibited to development by State Areas of Environmental Concern.
- (10) All buildings shall be flood-proofed or built above 100 years flood elevation.
- (11) An acceptable sedimentation control plan that insures that fill will not adversely affect other properties or water bodies and that meets other requirements of State and local law will be filled.
- (12) Significant stands of trees and shrubs are to be preserved, except where the site is predominantly wooded or vegetated, in which case, development shall seek to retain as much vegetation as is feasible; in any event, natural vegetation shall be retained in buffer areas and in close proximity to water bodies.
- (13) The release rate of storm water from all development shall not exceed the storm water runoff from the area in its natural state for all intensities and durations of rainfall.
- (14) No development shall occur on steep slopes; (10% slopes) roads shall follow the natural contour of the land.

- (15) Roads shall be designed in such a manner as to minimize land disturbance and effect on runoff and drainage, non-standard paved surfaces, one-way systems, etc., should be considered where there use would not jeopardize public safety.
- (16) Adequate parking shall be provided for all structures considering their anticipated maximum use.
- (17) Adequate provisions for the collection and disposal of garbage and refuse, for access and use by fire-fighting equipment and vehicles, police and emergency vehicles shall be provided.
- (18) Adequate plans for water services, public or private sewer system shall be provided.
- (19) Where the PUD includes land with access to public trust or estuarine waters dedication of land for beach or water access shall be provided in an amount suitable to the anticipated nature and frequency of the use.
- (20) Unless otherwise provided the terms reasonable and adequate shall be defined to mean the same degree or standard, or an equivalent standard, as would have been required under the basic provision of the zoning ordinance or subdivision regulations. The Town in the interest of preserving the integrity of the development may vary any requirements except (1) through (5) to this section.

Provided that all PUDs shall meet the general standards for Section 603 governing special uses.

(e) Bonus Features.

- (1) The applicant shall be allowed a 33 1/3% increase in density where the complete development given the new density would result in a significant reduction of area in impervious surfaces over that which would have been created by developing without PUD;
- (2) The applicant shall be allowed up to a 33 1/3% increase in density for excellence in fire, safety and environmental design;
- (3) The applicant shall be allowed a 33 1/3% increase in density where a regional package facility or public sewage is provided.

(f) Phasing. The Town shall require such actions as may be necessary to insure the completion of the entire project, including performance bonds.

(g) Common Open Space

- (1) Common areas shall be either dedicated to the Town, or deeded in fee simple to a Property Owners Association. Where the property is deeded to the Property Owners Association, the Articles of Incorporation and Bylaws governing the Association shall adequately provide for the maintenance, repair and replacement of such areas and facilities;
- (2) The Property Owners Association shall adopt and implement such regulations as shall be necessary to insure that undeveloped open space does not become developed, and where such open space consists of dunes, forests, shrub areas, or wetlands that such features are maintained to the same extent that they exist on the date that the Planned Unit Development is approved.

Article VII

Non Conforming Uses

Section 701. Purpose.

Within the districts established by this ordinance there may exist lots, structures and uses of land and structures which were lawful before this ordinance was passed but which are prohibited under the terms of this ordinance. It is the intent of this ordinance to permit these non-conformities to continue for a reasonable period of time before they must comply. It is not the intent of this ordinance to encourage their survival.

Section 702. Non-conforming Situations Allowed.

A non-conforming situation, be it a non-conforming lot, structure, or use of land or structure, that was otherwise lawful on the effective date of this ordinance may be continued subject to any restrictions and qualifications set forth in this article.

Section 703. Restrictions and Qualifications as Regards Non-conforming Lots.

Any non-conformity with this ordinance which arises because the lot is too small in area or not sufficient in distance requirements as set out in Section 399 shall not be entitled to utilize the non-conforming situation provision of this ordinance if at the effectiveness date of this ordinance the owner of said lot was also the owner of an adjacent lot or parcel of land which when combined with the non-conforming lot would create a conforming lot without otherwise creating a non-conformity.

Section 704. Restrictions and Qualifications as Regards Non-conforming Structures.

(a) Any non-conforming structure existing at the effective date of adoption of this ordinance that is destroyed at any time subsequent to such date in any manner and from any cause to such an extent that the costs of repair and/or restoration shall equal or exceed one half of the fair market value of such a structure just prior to said destruction, shall not be rebuilt, repaired or restored pursuant to the non-conforming situation provision of this article.

(b) No structure shall be enlarged or altered in any way which increases its non-conformity. An increase in non-conformity shall include:

- (1) an increase in the total amount of space devoted to a non-conforming use;
- (2) a greater non-conformity with respect to dimensional requirements;
- (3) the enclosure of previously unenclosed areas.

Section 705. Restrictions and Qualifications as Regards Non-conforming Uses.

The following types of non-conforming uses which were lawful on the effectiveness date of this ordinance shall not be recognized as entitled to use the non-conformity situation provisions of this ordinance:

(a) A non-conforming use which is not the same non-conforming use existing on the effectiveness date of this ordinance;

(b) A non-conforming use allowed under subparagraph (a) above, but which succeeds a conforming use of any kind;

(c) A non-conforming use that has been moved in whole or part to another portion of the lot or parcel occupied by such use at the effective date of adoption of this ordinance;

(d) A non-conforming use that has been enlarged or increased, or extended, to occupy a greater area of land or space that was occupied at the effective date of adoption of this ordinance;

(e) A non-conforming use, permanent or seasonal, that has ceased to exist for a period in excess of one year.

Section 706. Amortization of Certain Uses.

(a) No mobile home which was a lawful non-conforming use at the effective date of the adoption of this ordinance shall be allowed to utilize the non-conforming situation provision of this article beyond December 31, 1986.

(b) No mobile home which was a lawful non-conforming use at the effective date of the adoption of this ordinance shall be replaced by another mobile home.

Article VIII

Board of Adjustment

Section 801. Board of Adjustment Established.

A Board of Adjustment is hereby established. The word "Board" when used in this article shall mean Board of Adjustment. The Board shall have five (5) regular members and five (5) alternate members, all of whom shall be residents of the Town of Atlantic Beach, appointed by the Mayor and approved by the Board of Commissioners. The term of office shall be for three years. Members and alternates now serving on the Board shall continue the term to which they were appointed. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Board of Commissioners upon written charges and following public hearing, only.

Section 802. Rules, Regulations, Conduct of Meetings.

The Board shall elect such officers and adopt such rules and regulations for its own government as it deems necessary to carry out the provisions of this article. All hearings shall be open to the public. The Board shall keep minutes of its proceedings, make necessary findings of fact and conclusions of law, and record its vote on all resolutions and decisions.

Section 803. Appeals from the Decisions of the Building Inspector.

An appeal from the decisions of the Building Inspector may be taken to the Board of Adjustment by any aggrieved person or by the Town. Such an appeal shall be taken within ten (10) days of the Building Inspector's decision, by filing written notice of appeal with the Board specifying the grounds for appeal. An appeal stays all proceedings. The Building Inspector shall transmit to the Board all papers and documents in his possession relating to the case on appeal.

Section 804. Powers of the Board.

The Board shall have the following powers:

(a) To hear appeals when it is alleged that there is error in any order, requirement, decision or determination by the Building Inspector. A concurring vote of four (4) members of the Board shall be necessary to reverse an order, requirement, decision or determination of the Building Inspector.

(b) To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of this ordinance will result in undue hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

(1) In considering all proposed variances, the Board shall before making any findings in a specific case determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district of this ordinance, not expand a non-conformity, not change a district boundary, not materially increase public danger of fire or safety or materially diminish or impair established property values within the surrounding area or in other respect impair the public health, safety and general welfare.

(2) Before a variance is granted, it shall be shown that special circumstances attach to the property which do not apply to other property in the district. A variance may be granted only when practical difficulty or undue hardship is due to the particular characteristics of the property and not to the general conditions in the district.

(c) To issue special use permits.

(d) In granting a variance or special use permit, the Board may attach such conditions regarding use or development as it deems may be advisable to carry out the provisions of this ordinance.

Section 805. Review by Certiorari.

Any person or persons, jointly or severally, aggrieved by any decision of the Board, may within thirty (30) days after the filing of the decision in the office of the Board, but not thereafter, present to a court of competent jurisdiction a duly verified petition, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality, wherein such decision shall be subject to review as provided by law.

Article IX

Administration and Enforcement

Section 901. Administration.

The Building Inspector of the Town of Atlantic Beach is hereby authorized, and it shall be his duty, to administer and enforce the provisions of this ordinance except as otherwise provided herein. The Building Inspector is authorized to issue such permits as provided in this ordinance, excepting a special use permit wherein the Building Inspector shall make a recommendation to the Board of Adjustment, and a planned unit development permit wherein the Building Inspector shall act as an administrator to the Planning Board of the Town of Atlantic Beach and of the Town.

Section 902. Application for Zoning Permit.

Application for a zoning permit shall be on such form as specified by the Town and shall fully describe the activity proposed to be undertaken and provide such additional information as is necessary to determine compliance with the provisions of this ordinance. Within thirty (30) days of receiving a completed application, the Building Inspector shall make such decision or recommendation as required by him under the requirements of this ordinance. If the Building Inspector determines that the applicant for a zoning permit has demonstrated that a proposed development will comply with the terms of this ordinance, he will issue a zoning permit. Otherwise, he will deny a zoning permit. If, after the submission of an application, the Building Inspector should determine that the application is not complete for any reason, he shall return the application to the applicant notifying him of the reason why the application was deemed incomplete. The time for reviewing an application shall be suspended from the time of the mailing or delivering of said notice of incompleteness until such time as a completed application is redelivered to the Building Inspector.

Section 903. Application for a Special Use Permit or Planned Unit Development Permit.

Application for a special use permit shall be as provided in Section 902 for a regular zoning permit. Possession of a special use permit shall be deemed to be possession of a zoning permit.

Application for a planned unit development permit shall be as provided in Section 621 of this ordinance. Possession of a planned unit development permit shall be deemed to be possession of a zoning permit.

Section 904. Fees.

All applications for a zoning permit, special use permit and/ or planned unit development permit shall be accompanied by a filing fee to be determined as follows: \$35 for the processing of the general application, plus \$20 for each dwelling unit proposed to be developed.

Fees for the sign ordinance shall be as provided in Article V of this ordinance.

Section 905. Certificate of Occupancy.

No land shall be used or occupied, and no building hereafter structurally altered, erected or moved shall be used or its use changed, until a certificate of occupancy shall have been issued stating that the building or structure as completed complies with the zoning permit, or special use permit, or planned unit development permit, and the building permit.

Section 911. Violations and Remedies.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the Building Inspector, or any appropriate authority in addition to other remedies may institute any appropriate action or proceeding to prevent the unlawful action or use, to restrain, correct, or abate any violation, to prevent the occupancy of the building, structure, or land or to prevent any illegal act, conduct, business or use in or about the premises.

Violations of the provisions of this ordinance shall be a misdemeanor under N. C. G. S. 14-4 and each day's continuing violation shall be a separate offense. Notwithstanding the criminal penalties, the Town of Atlantic Beach may institute a civil action against the offender seeking enforcement by appropriate equitable remedy, injunction and order of abatement or by any remedy authorized by N. C. G. S. 160A-175 and 160A-389, as amended.

Section 921. Amendment of the Zoning Ordinance.

The Town Board of Commissioners may, on their own motion or upon petition, after public notice and hearing, amend, supplement, change, modify or repeal the regulations or maps herein or subsequently established, subject to the rules and procedures established by law or provided herein.

(a) The Town Board of Commissioners will not take action on a proposal to amend the ordinance until a recommendation has been received from the Planning Board;

(b) No regulations or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which time parties in interest and citizens shall an opportunity to be heard. A notice of such public hearing shall be given once a week for two calendar weeks in a

newspaper of general circulation in the Town. The first such publication shall not be less than fifteen days preceding the date set for such hearing.

(c) Any application for rezoning shall be accompanied by a fee of \$100 which shall be used to partially or fully defray all administrative costs in reviewing the application.

Section 931. Effect on Outstanding Construction.

Nothing contained in this ordinance shall require any change in the plans, construction, size, or designated use of any building, structure or part of one for which a building permit has been granted by the Building Inspector prior to the time of passage of this ordinance.

Section 932. Interpretation, Purpose and Conflict.

In interpreting and applying the provisions of this ordinance they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, prosperity and general welfare. Where this ordinance imposes a greater restriction upon the use of buildings or lots than are imposed by easements, covenants, agreements, ordinances or statutes, the provisions of this ordinance shall govern.

Section 933. Separability.

Should any article, section, subsection, paragraph, sentence, clause, phrase, or district boundary of this ordinance of the zoning map herein or hereafter adopted be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these regulations and the zoning map as a whole or any other part other than the part so decided to be unconstitutional or invalid.

Section 934. Prior Ordinance.

This ordinance carries forward some of the provisions of the prior zoning ordinance and the enactment of this ordinance shall not affect any pending litigation.

Section 999. Effective Date.

This ordinance, including the zoning map, shall take effect from and after the date of its adoption by the Town Board of Commissioners.

Date of Adoption: _____.

SUBDIVISION REGULATIONS

TOWN OF ATLANTIC BEACH

PART 9

Planning and Regulation of Development

Chapter 4

Subdivision Regulations

Section 9-4001 Purpose.

The purpose of these regulations is to regulate and control the subdivision of land within the limits of the Town in order to promote the public health, safety, and general welfare of the community. They are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land, to insure proper legal description and proper monumenting of subdivided lands; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, parks, schools, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land; to protect areas of environmental concern. (Ord. of _____, Sec. _____).

Section 9-4002 Jurisdiction.

On and after _____, these regulations shall govern each and every subdivision of land lying within the Town and outside the subdivision regulation jurisdiction of any municipality, and territory within the subdivision regulation jurisdiction of any municipality whose governing body by resolution agrees to such regulation. (Ord. of _____, Sec. __)

Section 9-4003 Authority.

The Town hereby exercises its authority to make and adopt subdivision regulations under provisions pursuant to Chapter 1033 of the Session Laws of 1969. (Ord. of _____, Sec. __)

Section 9-4004 No service or permits issued until final plat approved.

No street shall be accepted for maintenance by the Town nor shall any permit be issued by any administrative agent of the Town for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this chapter have been complied with and same approved by the Planning Board. (Ord. of _____, Sec. __)

Section 9-4005 Penalty.

Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction of the Town as defined herein, thereafter transfer or sells such land by reference to a plat showing a subdivision of land before such plat has been properly approved under this chapter and recorded in the office of the Register of Deeds of Carteret County, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town, through its Town attorney or other official designated by the Town Board, may enjoin such illegal transfer or sale by action for injunction. (Ord. of _____, Sec. __)

Section 9-4006 Duty of the register of deeds of Carteret County.

The Town shall file a copy of this chapter with the Register of Deeds of Carteret County. The register of deeds shall not thereafter file or record a plat of subdivision located within the platting jurisdiction of the Town without the approval of the legislative body as required in this chapter. The landowner shown on a subdivision plat submitted for recording or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the platting jurisdiction of Atlantic Beach as defined herein. The filing or recording of a plat of a subdivision without the approval of the leg-

islative body as required by this chapter, shall be null and void. The Clerk of Superior Court of Carteret County shall not order or direct the recording of a plat where such recording would be in conflict with this section. (Ord. of _____, Sec. ____)

Section 9-4007 Separability.

Should any section or provision of these regulations be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which in not itself held void or invalid. (Ord. of _____, Sec. _____)

Section 9-4008 Compliance with official plans.

(a) Whenever a tract to be subdivided embraces any part of a major thoroughfare, parkway or boulevard designed in the official maps and plans for the Town, such part of such proposed public way shall be platted and dedicated by the subdivider in the location and at the width specified.

(b) To insure orderly development of the Town in accordance with the general principles set forth on the development plan, it is recommended that the subdivider reserve open spaces for parks, schools, fire stations, and playgrounds for a period of six (6) months from the date of submission of the preliminary plat. (Ord. of _____, Sec. ____)

Section 9-4009 Exceptions and variations.

(a) Where topography or other existing physical conditions are such that compliance with the foregoing requirements would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, the Planning Board may vary the minimum requirements set forth herein, provided that such variation will not have the effect of nullifying the interest and purpose of these regulations. Where a variation is accepted the reasons for such shall be noted in the minutes of the Planning Board.

(b) The standards and requirements of the chapter may be modified by the Planning Board in the case of planned unit development, which in the judgment of the planning board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. of _____, Sec. ___)

Section 9-4010 Definitions.

For the purpose of these regulations certain words used herein are defined as follows:

(1) Subdivision. A "subdivision" shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedications of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations prescribed by the chapter:

(a) The combination or re-combination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown by the regulations prescribed by this chapter.

(b) The division of land into parcels greater than five (5) acres where no street right-of-way dedication is involved.

(c) The public acquisition by purchase of strips of land for the widening or opening of street;

(d) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-

of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the Town, as shown by the subdivision regulations contained in this chapter.

(2) Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

(3) Official maps or plans. Any maps or plans officially adopted by the Town Board as a guide for the development of the Town consisting of maps, charts and texts.

(4) Thoroughfare. A thoroughfare shall mean or include all streets except residential streets.

(5) Street. A dedicated and accepted public right-of-way for vehicular traffic:

(a) Major streets and highways. Streets and highways which are used primarily for fast or heavy traffic.

(b) Collector street. Streets which carry traffic from minor street to the system of major streets.

(c) Minor streets. Streets which are used primarily for access to the abutting properties.

(d) Marginal access streets. Minor streets which are parallel to and adjacent to major streets and highways; and which provide access to abutting properties and protection from through traffic.

(e) Cul-de-sac. A short street having but one (1) end open to traffic, the other end of which is permanently terminated by a vehicular turnaround.

(6) Easement. A grant by the property owner for use by the public, corporation, or person(s), of a strip of land for specified purposes.

(7) Building setback line. A line parallel to the front property lines in front of which no structure may be built.

(8) Lot. A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development.

(9) Corner lot. A lot abutting upon two (2) or more streets at their intersection.

(10) Alley. A minor right-of-way privately or publicly owned, primarily for service access to the back of side of properties.

(11) Dedication. A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by written instrument and is completed with an acceptance.

(12) Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts.

(13) Open space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

(14) Planned Unit Development. The planned unit development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to the long-term value of the entire development.

(15) Private Driveway. A roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

(16) Public Sewage Disposal system. A system serving two (2) or more dwelling units and approved by the Carteret County Health Department and the North Carolina Department of Natural Resources and Community Development.

(17) Reservation. A reservation of land does not involve any transfer or property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

(18) Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

(19) Single-Tier Lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited. (Ord. of _____, Sec. _____)

Section 9-4011 Procedure.

No plat of a subdivision within the jurisdiction of the Planning Board shall be accepted for record by the register of deeds until final approval has been given by the planning board. To obtain final approval, the subdivider shall follow these steps:

(1) Sketch Design Plan. Prior to submitting a preliminary plat to the Planning Board, the subdivider shall submit to the Planning Board, at least 10 days prior to the regularly scheduled meeting of the Planning Board when the subdivider desires his sketch to be reviewed, a sketch design plan. Said plan will include copies, maps and other information as follows:

(a) The subdivider shall submit (10) copies of the sketch design plan. No specific size requirements apply to the sketch design plans.

(b) The sketch design plan shall include:

(1) A sketch vicinity map showing the boundaries of the tract and the location of the subdivision to neighboring tracts, subdivisions, roads and waterbodies.

(2) A detailed resources map showing location of natural features within the boundaries of the tract, including

(a) Dunes

- (b) Wetlands
 - (c) Waterbodies
 - (d) Maritime forest or shrub
 - (e) Other trees and shrubs
- (3) A sketch existing development map showing:
- (a) Existing buildings and structures
 - (b) Seawalls and bulkheads
- (4) Sketch planning maps showing alternative methods of development:
- (a) Rough layout of dwelling units and commercial structures
 - (b) Street layout
 - (c) Water lines, fire plugs
 - (d) Sewer lines and plants
 - (e) Surface Drainage

(c) Information in addition to map should include that on design of sewage treatment system, number of units to be developed, total acreage.

(d) The sketch plan shall be reviewed by the Building Inspector and an urban planner, and comments from both shall be presented to the Planning Board.

(e) Review Procedure. The Planning Board shall review the sketch design plan for general compliance with the requirements of this ordinance and the zoning ordinance; the Planning Board shall advise, within 14 days, the subdivider or his authorized agent or the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for recording of the subdivision by the Planning Board or Town Council as required by this ordinance.

(1) Disposition of Copies. One copy shall be retained as a part of the minutes of the Planning Board and one copy shall be returned to the subdivider or his authorized agent.

(2) Preliminary plat.

(a) The subdivider shall submit ten (10) copies of the preliminary plat and any supplementary material to the office of the Building Inspector at least 15 days prior to the second Monday of the month the plat is to be considered by the Planning Board.

(b) Preliminary plat shall be prepared at a scale of one (1) inch equals two hundred (200) feet, or greater. No certificates need to be submitted in connection with the plat.

(c) An administrative fee adequate to cover the costs of review by the Town for the entire review process shall be submitted with the preliminary plat. This fee shall be based on the number of lots proposed in the preliminary plat and shall be set at \$25.00 per lot.

(d) The preliminary plat shall depict or contain the following information:

- (1) The proposed name of the subdivision;
- (2) A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area at a scale of one (1) inch equals four hundred (400) feet;
- (3) The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented, with all bearings and distances shown;
- (4) Scale denoted both graphically and numerically;
- (5) North arrow and declination;
- (6) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal

must be accompanied by letters of preliminary approval by the appropriate county and state authorities (See Appendix I). Plans must show line sizes, the location of fire hydrants, blows-offs, manholes, pumps, force mains, and gate valves, and shall include profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers;

- (7) Proposed street names;
- (8) The zoning classification(s) of the tract to be subdivided and adjoining properties;
- (9) Proposed location and size of parks, school sites, or other recreational or open spaces, if any, and their future ownership (dedication for public use to governmental body, for owners to duly constituted homeowners or community association, or for tenants remaining in subdivider's ownership;
- (10) Site calculations, including:
 - (1) acreage in total tract to be subdivided
 - (2) acreage in parks and other nonresidential use
 - (3) total number of parcels created
 - (4) linear feet in streets;
- (11) Proposed minimum building setback lines;
- (12) The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
- (13) Any proposed riding trails, natural buffers, pedestrian, bicycle, or other rights-of-way, utility or other easements, their location, width, and purposes;
- (14) Proposed streets, existing and platted streets on adjoining properties and in the proposed subdivision, right-of-way, pavement widths, approximate grades, design engineering data

for all corners and curves, and typical street cross sections. If any street is proposed to intersect with a State Maintained road, the plat shall be accompanied by an application for driveway approval as required by the Department of Transportation, Division of Highway's Manual on Driveway Regulations;

- (15) Existing and proposed property lines, both on the tract to be subdivided and on adjoining properties, buildings, or other structures, water course, railroads, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining; corporate limits, township boundaries, and county lines;
- (16) Proposed lot lines, block letters and lot numbers, and approximate dimensions;
- (17) Wood or vegetated areas, marshes, swamps, dunes, water bodies, and any other natural features affecting the site;
- (18) Topographical map showing vertical contours at two (2) feet intervals;
- (19) The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or similar covenants (mandatory when private recreation areas are established).
- (20) Date of plat preparation;
- (21) The name(s) of the township(s), county and state in which the subdivision is located;
- (22) The name(s), address(es), and telephone number(s) of the owner(s), registered surveyor(s), and land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision.

(23) Environmental Impact Statement. Where the development exceeds two acres in area, and if the board deems it necessary due to the nature of the land to be subdivided, or peculiarities in the proposed layout, an environmental impact statement may be required.

(24) Any other information reasonably considered by the Planning Board to be necessary to the review of the preliminary plat;

on each preliminary plat within thirty (30) days after first consideration by the Planning Board.

(f) Requesting a Review. If the plat is approved, approval shall be noted on at least three (3) copies of the plat by the Planning Board Secretary. One copy shall be transmitted to the Town Clerk who shall retain in for public examination, one copy shall be returned to the subdivider and one copy shall be retained by the Planning Board.

If the preliminary plat is disapproved, the Planning Board shall specify the reasons for such action in writing. One copy of such reasons shall be retained by the Planning Board, one copy shall be given to the subdivider, and one copy shall be transmitted to the Town Clerk. If the preliminary plat is disapproved, the subdivision may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Town Board of Commissioners.

(3) Final Plat.

(a) Improvements Installation or Guarantees. Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance.

Prior to the approval of a final plat, the subdivider shall have installed improvements specified in this Ordinance or guaranteed their installation as provided.

(b) Performance Guarantee. In lieu of prior construction of the improvements required by this Ordinance the Town of Atlantic Beach shall, for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out according to the Town's specifications at his expense. Such a guarantee may be in the form of: (1) a surety bond made by a surety company licensed to do business in North Carolina; (2) certified check or cash deposited in a joint savings account with the Town Clerk, Town of Atlantic Beach. As a percentage of the project is completed a proportionate amount may be withdrawn by the developer provided Town Board of Commissioners approves. (3) a "Letter of Credit" from a lending institution that specifies a limit of credit which will be extended to a developer upon request. Such guarantee shall be in an amount of not less than 110% nor more than 125% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Board of Commissioners based on an independent estimate by a qualified contractor. (Performance guarantees shall run for a period of one year and may be renewed once for a period of one year upon written approval from the Town Board of Commissioners.)

(c) Defects Guarantee. The Town Board of Commissioners may require a bond guaranteeing utility taps, curbs, gutters, street pavement, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one year. This bond shall be in the amount determined by the Town or Consulting Engineer and shall be in cash or be made by a surety company authorized to do business in North Carolina.

(d) Maintenance Guarantee. The Town Clerk shall secure from all subdividers a letter in which said subdivider shall agree to maintain the backfill

and any improvements located thereon and therein and any ditch which has been dug in connection with the installation of such improvements. Such a letter shall be binding on the subdivider for a period of one year after the acceptance of such improvements by the Town of Atlantic Beach.

(e) Final Plat Review Contingent Upon Execution of Guarantees. No final plat will be accepted for review by the Planning Board or Town Board unless accompanied by written notice by the Building Inspector acknowledging compliance with this Ordinance.

(f) The Final Plat. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of this Ordinance.

(1) No final plat shall be approved unless and until the subdivider shall have installed in that area represented on the final plat all improvements required by this Ordinance or shall have guaranteed their installation as provided for in paragraph (a), (b) or (c) above.

(g) Plat Submitted. The subdivider shall submit the final plat, so marked, to the Chairman of the Planning Board or his designee not less than twenty-one (21) days prior to the Planning Board meeting, at which it will be considered for approval; further, the plat shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved, otherwise such approval shall be null and void unless a written extension of this time limit is granted by the Planning Board on or before the one-year anniversary of the approval.

(h) Plat Prepared. The final plat shall be prepared by a surveyor or professional engineer licensed to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of Section 47-30 of the General Statutes of North Carolina.

(i) Number of Copies and Graphic Media. Five (5) copies of the final plat shall be submitted; two (2) of these shall be drawn in ink on linen or film suitable for reproduction; three (3) shall be black or blue line paper prints.

(j) Size of Plat and Scale. Final plat may have an outside marginal size of not more than twenty-one (21) inches by thirty (30) inches nor less than eight and one-half ($8\frac{1}{2}$) inches by eleven (11) inches, including one and one-half ($1\frac{1}{2}$) inch border on each of the other sides. Where size of land areas or suitable scale to assure legibility require, maps may be placed on two or more sheets with appropriate match lines. Final plats shall be drawn at a scale of one (1) inch equals two hundred (200) feet, or greater.

(k) Administrative Fees. Submission of the final plat must be accompanied by a filing fee of \$20.00.

(l) Certification Required. The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning Board by the Subdivider:

1. Certificate of Ownership and Dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Atlantic Beach, and that I hereby adopt this plan of subdivision with my free consent, established minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Atlantic Beach.

_____ Date

_____ Owner(s)

2. Certification of Approval of Water Supply and Sewage Disposal Systems. I hereby certify that the water supply and sewage disposal systems installed, or proposed for installation in _____ Subdivision meet necessary public health requirements and are hereby approved.

_____ Date

_____ Carteret County Health Officer
or his Authorized Representative

(Certification (b) not required for subdivision which are connected, or will be connected, to existing publicly owned and operated water supply and sewage disposal systems.)

3. Certificate of Survey and Accuracy. I, _____ certify that this map was (drawn by me) (Drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____ etc.) (Other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book, _____ Page _____; that this map was prepared in accordance with G. S. 74-30 as amended. Witness my hand and seal this _____ day of _____ A. D., 19____.

Registered Surveyor of Professional
Engineer

License or Registration Number

4. Certificate or Approval of the Design and Installation of Streets, Utilities, and other Required Improvements. I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to Town of Atlantic Beach specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Atlantic Beach has been received and that the filing fee for this plat, in the amount of \$20.00 has been paid.

Date

(Code Enforcement Officer)

(m) Contents Required. The final plat shall depict or contain the following information; plat not illustrating or containing the following information shall be returned to the subdivider or his authorized agent for completion and resubmission.

1. The name of the subdivision;
2. The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands;
3. Scale denoted both graphically and numerically;
4. The plans for utility layouts, including sewer, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems or plans for individual water supply systems and/or sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains, and gate valves;
5. Street names;
6. The location, purpose, and dimensions of areas to be used for purposes other than residential;
7. Minimum building setback lines;
8. The name of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
9. The location and dimensions of all right-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be declared to public use with the purpose of each stated;
10. Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easements;

11. Property lines, buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining corporate limits, township boundaries, and county lines;
12. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and set back line, including dimensions, bearing, or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;
13. The accurate locations and descriptions of all monuments, markers, and control points;
14. The block lettered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block with appropriate street number identification for each lot;
15. The deed restrictions or any other similar covenants proposed for the subdivision, if any;
16. The date of the survey and plat preparation;
17. North arrow and declination;
18. All certification as required by sub paragraph 12 of this Article;
19. The name(s) of the township(s), county(ies), and state in which the subdivision is located.
20. The name(s), address(es), and telephone number(s) of the owner(s),

registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s).

21. Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the final plat.

(n) Review Procedure. Final plats shall be reviewed according to the following procedure:

1. The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration.

During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, in the opinion of the Planning Board, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

If the Planning Board approves the final plat, such approval shall be indicated on each copy of the plat by the following signed certificate:

Certification of Approval by the Planning Board

The Atlantic Beach Planning Board hereby approves the final plat for the _____ Subdivision.

_____ Date

_____ Chairman Atlantic Beach Planning Board

If the Planning Board disapproves the final plat, the Planning Board shall state in writing its reasons for such action, specifying the provisions of this ordinance with which the plat does not

comply. One copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval; one copy shall be retained by the Planning Board as a part of its proceedings, and one copy shall be sent to the Town Clerk.

If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of this ordinance and resubmit same for reconsideration by the Planning Board.

If the Planning Board fails to approve or disapprove the final plat within thirty (30) days after first consideration, as previously defined in paragraph (n), such failure shall be deemed approval and shall constitute grounds for the subdivider to apply for final approval by the Town Council.

2. Town Board of Commissioners. If the Town Council approves the final plat, such approval shall be made at the next meeting and shall be shown on each copy of the plat by the following signed certificate.

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Atlantic Beach, North Carolina, and that this plat has been approved by the Town Council for recording in the Office of the Register of Deeds of Carteret County.

Date

Town Clerk

If the final plat is disapproved by the Town Board of Commissioners the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this ordinance with which the final plat does not comply. One (1) copy of

such reasons shall be retained by the Town Board of Commissioners as a part of its proceedings, one (1) copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this ordinance and re-submit same for reconsideration by the Planning Board.

(o) Effect of Plat Approval on Dedication. The approval of a final plat shall be deemed to constitute or effect the acceptance by the Town of Atlantic Beach of the dedication of streets, or right-of-way, public utility line, or other public utility line, or other public facility provided the improvements are constructed in accordance with policies, standards, and guidelines listed herein or adopted elsewhere by the Town Board of Commissioners.

(p) Disposition of Copies. If the final plat is approved by the Town Board of Commissioners, the original tracing and one (1) print on the plat shall be returned to the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Town Clerk; one (1) shall be retained by the Planning Board.

(q) Recording of final plat. The subdivider shall file the approved final plat with the Register of Deeds of Carteret County for recording within ninety (90) days after the date of Town Board of Commissioners approval; otherwise, such approval shall be null and void.

(r) Resubdivision Procedures. For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that (a) no lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan; (b) drainage, easements or right-of-way shall not be changed; (c) street alignment and block sizes shall not be changed (d) the property line between the

back of the lots shall not be changed; (e) the rear portion of lots shall not be subdivided from the front part; (f) the character of the area shall be maintained. (Ord. of _____, Sec. ____)

Section 9-4012 Design Standards.

1. General. Each subdivision shall contain the following improvements as expressed in the following chart:

<u>Improvement Required Schedule</u>
<u>Improvements Required:</u>
Graded Streets and Lots
Storm Water Drainage
Central Water and Hydrants
Paved Streets
Underground Wiring

2. Suitability of Land. Lands designated as Areas of Environmental Concern and subject to flooding, improper drainage, erosion, severe hazards, or that is for topographical or for other reasons unsuitable for residential use as determined by the Planning Board, shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards can be and are corrected.

(a) Prevention of Flood Damage. Lands subject to flooding from rivers or storms as defined and mapped by the Federal Insurance Administration, HUD shall be so identified on the preliminary plat. Development of any of these areas so identified and any deed restrictions shall be in accordance with the Code of Federal Regulations, Title 24, Chapter X, Federal Insurance Administration, Section 1910.3.

Appropriate deed restrictions shall be filed for those lands subject to flooding, prohibiting their development for dwellings or other

uses unless the sites are flood-proofed as follows:

- (1) No structure or fill shall be placed in the floodway which would interfere with the natural water course.
- (2) Streets and utility lines and structures may be placed within the flood plain only if their elevation is raised above maximum flood heights or they are otherwise floodproofed.
- (3) Dwelling and self-contained sewage disposal units (if used) shall be built at an elevation above maximum flood heights.
- (4) The subdivision drainage system shall be designed to prevent increased flood flows due to newly impervious surfaces and other factors.

(b) Fill Areas. Areas that have been used for the disposal of solid waste (garbage) shall not be subdivided into commercial or residential building sites. This shall include those areas that have been used for the disposal of trash, demolition waste, and other waste materials.

3. Sidewalks. Sidewalks, if provided, shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of reinforced concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a Planned Unit Development.

4. Natural Assets. In any subdivision due consideration will be given to preserving natural features such as trees, ponds, streams, dunes, rivers, lakes and for any historical sites which are of value not only to the subdivision but the town, county and state as well.

(a) Vegetation. Significant strands of trees or shrubs are to be preserved. However, where the entire lot is wooded, development shall retain as much vegetation as practical.

(b) Erosion. No significant removal of frontal or secondary or other dune sand shall be allowed where said dune lies within an area of

environmental concern. Development in dunes outside of areas of environmental concern shall be restricted in their removal and relocation of dune sand to only the minimum amount necessary to accomplish development. This phrase shall be generally interpreted to mean only so much as is necessary to provide for streets, water and sewer lines, drainage ditches, parking and septic systems.

5. Name of Subdivision. The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the jurisdiction of the Town of Atlantic Beach.

6. Sedimentation Pollution Control. In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall comply with all requirements of the "North Carolina Sedimentation Pollution Control Act of 1973", or any locally adopted sediment control ordinances.*

7. Storm Water Drainage. The subdivider shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall conform to the N.C. Department of Transportation's Atlantic Beach Drainage Plans, December, 1973, and shall be subject to the approval of the Town Board of Commissioners.

(a) No surface water shall be channelled or directed into a sanitary sewer.

(b) Where feasible, the subdivider shall connect to an existing storm drainage system.

(c) Where an existing storm drainage system cannot be feasibly extended to the subdivision, a surface drainage system shall be designed to

NOTE*: Information concerning sedimentation controls and plans available through local Agriculture Extension Office or N.C. Department of Natural Resources and Community Development.

protect the proposed development from water damage.

(d) Surface drainage courses shall have side slopes of at least three (3) feet to horizontal distance for each one (1) foot of vertical distance and courses shall be of sufficient size to accommodate the drainage area without flooding.

(e) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each three hundred (300) feet to horizontal distance.

8. Water Sewerage Systems. The preliminary subdivision plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal.

(a) Where the system is to be connected to the system owned and operated by the Town, or sanitary district, but not constructed by the municipalities or the County, the preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public sewer system or public water system, and the appropriate State agency. Water supply systems should be approved by the Fire Department as to location of hydrants and size of mains. No mains shall be less than six (6) inches inside diameter.

(b) Where the proposed system does not contemplate the use of facilities owned and operated by any of the above, the proposed facilities shall be approved by the appropriate agency (See Appendix I and Appendix II).

(c) Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the Carteret County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil condition suitable to accommodate the proposed methods of water supply and sewage

disposal. The statement from the health department shall be based upon a field investigation. The field investigation for sewage disposal shall include three percolation tests in the exact area that nitrification fields will be installed to determine the depth of the groundwater table, and the presence of rock formations or other impervious strata.

(d) New water and sewer systems shall be designed, located and constructed to eliminate or minimize flood damage and infiltration of flood waters.

9. Streets.

(a) Coordination and Continuation of Streets. The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area and where possible, existing principal streets shall be extended.

(b) Access to adjacent Properties. Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around shall be provided.

(c) Private Street. Private streets shall be prohibited within any platted subdivision with the exception of Planned Unit Developments (PUD)

(d) Marginal Access Streets. Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.

(e) Street Names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new

names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Planning Board, as outlined above.

(f) Collector and Minor Streets. Collector and minor streets shall be so laid out that their use by the through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to the Atlantic Ocean, Bogue Sound and canals connecting to the Sound, parks, playgrounds, schools, and other places of public assembly.

(g) The design of all streets and roads within the Jurisdiction of the Town of Atlantic Beach shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials' (AASHO) manuals. The provision of the street rights-of-way shall conform and meet the requirements of the thoroughfare plan for Atlantic Beach as approved by the Atlantic Beach Planning Board and adopted by the Town Board of Commissioners and the North Carolina Department of Transportation, Division of Highways.

(h) Rights-of-way Widths. Rights-of-way widths shall be not less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the Atlantic Beach Thoroughfare Plan.

	Right-of-Way, Ft.
Urban	60
Minor thoroughfare	60
Local Street	60
Cul-de-sac	100' diameter for turn around

(i) Pavement Widths. Pavement widths or graded widths shall be as follows:

	<u>Streets with curb and gutter (measured face-to-face of curb)</u>	<u>Streets without curb and gutter</u>
Minor Thoroughfare	34 feet	30 feet
Local Road	24 feet	20 feet
Marginal Access (Frontage)	24 feet	20 feet
Cul-de-sac	24 feet	20 feet
Cul-de-sac turn-around	80 ft. in diameter	80 ft. in dia.

(j) Roads and Street Surfaces. All subdivision streets and roads shall be constructed to meet the current requirements of the North Carolina Department of Transportation, Division of Highway's secondary roads plan of state maintenance.

(k) Tangents. A tangent of at least one-hundred (100) feet shall be provided between reverse curves on all streets.

(l) Street Intersections. Street intersections shall be laid out as follows:

- (1) All streets shall intersect as nearly as possible at right angles and no street shall intersect at less than sixty (60) degrees.
- (2) Intersection with a major street shall be at least one thousand (1,000) feet apart measured from centerline to centerline.
- (3) Where a centerline offset (jog) occurs at an intersection, the distance between centerline of the intersecting streets shall be not less than one-hundred twenty-five (125) feet.
- (4) Property lines at street intersections shall be rounded with a minimum radius of twenty (20) feet. At an angle of intersection of less than ninety (90) degrees, a greater radius may be required.

(5) Proper sight lines shall be maintained at all intersections of streets. There shall be a clear sight distance of one-hundred fifty (150) feet for major streets and seventy-five (75) feet for all other streets from the point of intersection as measured along the centerline. No building or obstruction shall be permitted in this area.

(m) Half Streets. The dedication of half streets of less than sixty (60) feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development. However, a partial width right-of-way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property that is owned or controlled by the subdivider; provided that the width or a partial dedication will permit the installation of such facilities as may be necessary to serve abutting lots. When the said adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(n) Cul-de-sac. All dead-end streets shall not exceed five hundred (500) feet in length unless necessitated by topography and shall be provided with a turn-around having the dimensions stated hereinbefore.

(o) Alleys. An alley may be provided to the rear of all lots used for other than residential purposes. Alleys are prohibited in residential blocks unless approved by the Planning Board. All alleys shall be designed in accordance with the Department of Transportation, Division of Highways' specifications and standards and shall meet the following requirements:

Right-of-way width	20 feet
Property line radius at alley intersection	15 feet
Minimum centerline radius when deflection angle or more than 10 degrees occurs.	35 feet
Minimum turn-around diameter of dead-end alley (right-of-way width)	80 feet

(p) Geometric Characteristics. The standards outlined below shall apply to all subdivision streets proposed for addition to the State Highway System or Municipal Street System. In case where a subdivision is sought adjacent to a proposed thoroughfare corridor the requirements of dedication and reservation discussed under Right-of-Way shall apply.

(1) Design speed. The design speeds for subdivision type street shall be:

<u>Urban</u>	<u>Desirable</u>	<u>(Minimum)</u>
Minor Thoroughfares	55	(40)
Local Streets	35	(25)

(2) Maximum and Minimum Grades. The maximum grades in per cent shall be:

Type of Topography	55 Desirable (40 Minimum)	35 Desirable (25 Minimum)
Flat - NCDOT Divisions 1, 2, 3, 4, and 6	4 (5)	5 (6)

The minimum grade in no case shall be less than 0.5%. Grades for 100 feet each way from intersections should not exceed 5 per cent.

(q) Minimum Sight Distances. In the interest of public safety, the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. General practice calls for vertical curves to be multiples of 100 feet. Calculated lengths should be rounded up in each case.)

Design Speed, MPH	30	40	50	60
Stopping Sight Distance				
Stopping distance, ft.	200	275	350	475
Min. K* value for:				
Crest Vertical Curve	28	55	85	160
Sag Vertical Curve	35	55	75	105
Passing Sight Distance				
Passing distance, ft.				
two lane	800	1300	1700	2000
Min. K* value for Crest				
Vertical Curve	190	510	870	1210

(r) Large Tracts or Parcels. Where land is subdivided into larger parcels than ordinary building lots, such parcels should be so arranged so as to allow for the opening of future streets and logical further resub-division.

*K is a coefficient by which the algebraic difference in grade may be multiplied to determine the lengths in feet of the vertical curve that will provide minimum sight distance.

(1) Maximum Degree of Curve and Related Maximum Superelevation

Type of Facility	Section	Design Speed, MPH											
		30		40		50		60		60		60	
		D	e	D	e	D	e	D	e	D	e	D	e
Urban Major and Minor Thoroughfares	Shoulder C & G	21.0°	0.06	11.5°	0.06							4.0°	0.06
		17.0°	0.02	9.0°	0.02							3.5°	0.02
Local Street	Shoulder C & G	21.0°	0.06	11.5°	0.06							4.0°	0.06
		17.0°	0.02	9.0°	0.02							3.5°	0.02

D= Maximum allowable degree of curve

e= Superelevation

10. Design Standards for Blocks.

(a) General. The lengths, widths, and shapes of blocks shall be determined with due regard to: Provisions of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation, control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(b) Block Length. Blocks shall, where possible, be at least four hundred (400) feet but not more than thirteen-hundred-twenty (1,320) feet in length.

(c) Block Width. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, or when abutting a water area.

(d) Pedestrian Crosswalks. Where deemed necessary by the Planning Board a pedestrian crosswalk at least five (5) feet in width may be required to provide convenient public access to a public area such as a park or school or to a water area such as the Ocean or Sound.

11. Design Standards for Lots.

(a) General. The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) Lots in subdivisions shall comply with the dimension and other requirements specified by the zoning ordinance.

12. Design Standards for Easements (Other Than Beach Access).

(a) Utility Easements. Easements for underground utilities shall be provided where necessary across lots or preferably centered on rear or side lot lines and shall be at least ten (10) feet in width.

(b) Drainage Easements. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such a stream and of sufficient width as will be adequate for the purpose.

(c) Buffer Strips. A buffer strip at least 50 feet in width may be required by the Planning Board adjacent to a commercial or industrial development. This strip shall be in addition to the normally required lot dimension, shall be part of the platted lot, and shall be reserved for the planting of trees and shrubs by the owners.

13. Design Standards for Water Access Areas. All subdivisions adjoining water areas shall provide for public access to the water. Such access shall include a 5 feet easement every 1,320 feet (1/4 mile) or part thereof along the shoreline adjacent to the subdivision. The purpose of these facilities is to serve properties within the subdivision. Such facilities shall be approved and dedicated to the Town of Atlantic Beach, and shall be directly accessible to a State or City maintained street or road. Where a public boat or dock or launching ramp is provided by the State, County, or any other agency within or contiguous to the area to be subdivided, such facility may count toward meeting the requirements of this Section.

14. Placement of monuments. Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under provisions of Section 16, Chapter 89, of the General Statutes of North Carolina, shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties, to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. The Suburban

Land Survey (Class B) criteria shall apply to all subdivision in the Atlantic Beach jurisdiction area except for commercial and industrial surveys.

15. Construction Procedures.

(a) Commencement. No construction or installation or improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

(b) Permits. No building, or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of this ordinance until all the requirements of this ordinance have been met.

(c) Access. The administrator of the Ordinance shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with the Ordinance.

(d) Inspection. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Administrator of this Ordinance to provide for adequate inspection. The approving authorities having full jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(e) Erosion Control. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected to comply with the provisions of Article VIII, Section 2.

(f) Existing Flora. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the U. S. De-

partment of Agriculture in Agricultural Information Bulletin No. 285, Protecting Trees Against Damage from Construction Work, U.S. Government Printing Office, 1964. Such trees are to be preserved by well islands or retaining walls whenever abutting grades are altered. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

(g) Construction. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

16. Oversized Improvements. The Town of Atlantic Beach may require installation of certain oversized facilities such as water mains in excess to 8" diameter, when it is in the interest of future development. The Town shall pay for that portion of the improvement which exceeds the standards set forth in this ordinance. (Ord. of _____, Sec. _____)

Section 9-4013. Planned Unit Development.

Developments planned under the Planned Unit Development shall comply with the PUD section of the Zoning Ordinance and are specifically exempted from the mandates of this ordinance to the extent that such ordinance makes conflicting or separate demands in procedure, furnishing of information or standards of design. (Ord. of _____, Sec. _____)

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