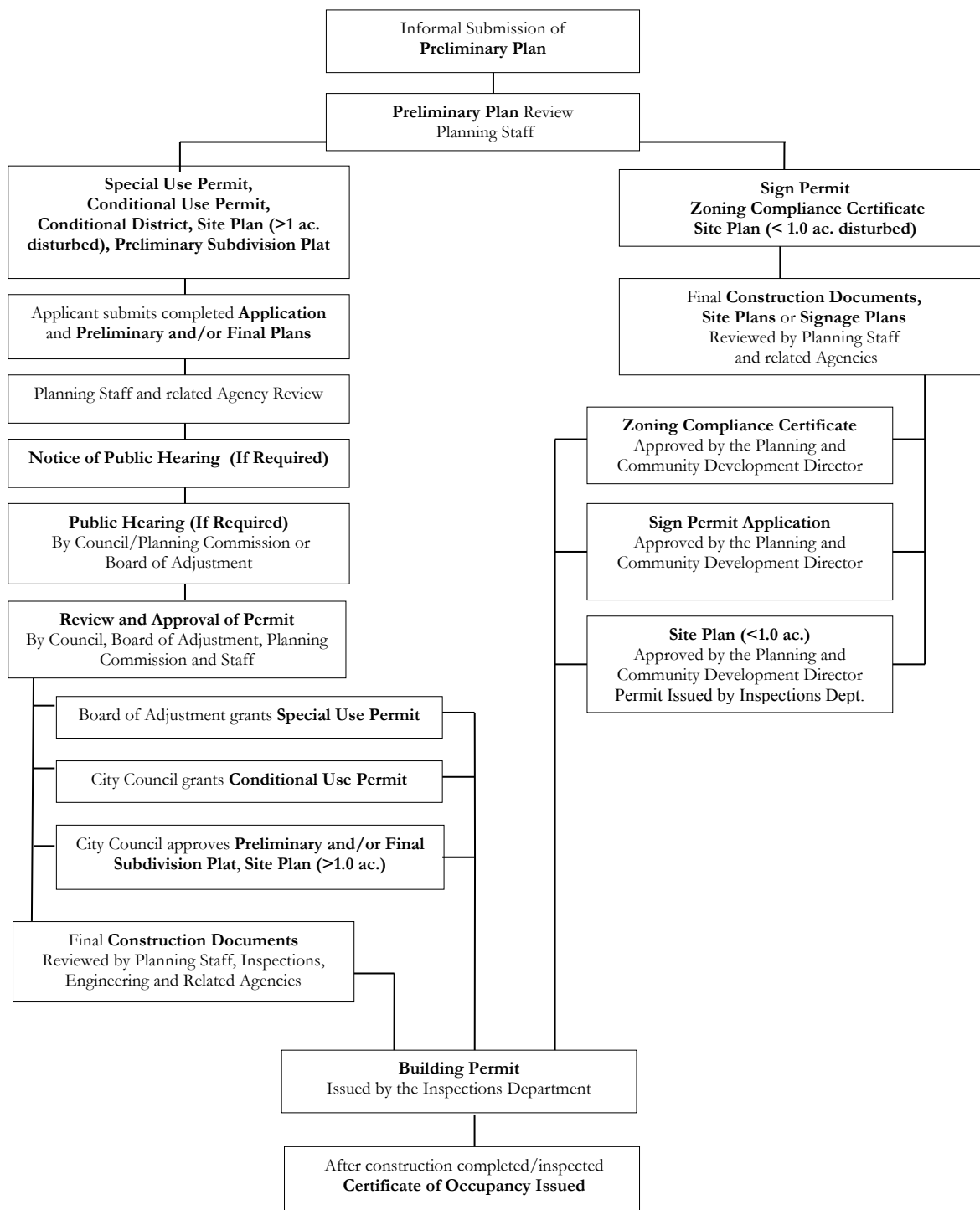

2.0 APPROVALS

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2.1 GENERAL APPROVAL PROCESS



2.2 CONDITIONAL AND SPECIAL USE APPROVAL

2.2.1 PERMITS REQUIRED

The use of a property may not be changed, clearing, grading or excavation commenced and buildings or other structures constructed, erected, moved or altered except in accordance with and pursuant to one of the following approvals:

1. A special use permit issued by the Goldsboro Board of Adjustment
2. A conditional use permit issued by the Goldsboro City Council
3. A sign permit issued by the Inspections Department
4. A site plan approved by the City Council or Planning Department.

Agriculture, mining or forestry activities are exempt from the above permit requirements except as provided for in this Code.

Special use permits, conditional use permits and sign permits are issued under this Ordinance only when the application and necessary plans have been submitted and indicate that the development will comply with the provisions of this Ordinance. Such plans and applications as are finally approved are incorporated into any permit issued. All development shall occur strictly in accordance with approved plans and applications.

All permits shall be issued in the name of the applicant or the principal, if submitted by an agent. The permit shall identify the property involved, the proposed use, incorporate by reference the plans submitted and contain any special conditions or requirements lawfully imposed by the permit issuing authority.

2.2.2 NO OCCUPANCY, USE OR SALE OF LOTS UNTIL REQUIREMENTS FULFILLED

Issuance of a conditional use or special use permit authorizes the applicant to commence the activity resulting in a change in use of the land or, with a building permit, to construct, erect, move or alter buildings or other structures or to make necessary improvements to a subdivision. However, except as provided in Section 2.12 (Improvement Guarantees), the intended use shall not be commenced, no building shall be occupied and in the case of subdivisions, no lots shall be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a conditional use or special use permit have been complied with.

2.2.3 WHO MAY SUBMIT PERMIT APPLICATIONS/SUBMISSION REQUIREMENTS?

Applications for rezoning, special use, conditional use or sign permits and subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or subdivision plat approval. By way of illustration, this means that applications should be made by the owners, their agents, lessees or persons who have contracted to purchase the property contingent upon permit approval. The Director of Planning and Community Development may require an applicant to submit evidence of his authority to make the application, whenever there appears to be a reasonable basis for questioning this authority.

2.2.4 APPLICATION DEADLINES

All applications for permits, site plan and subdivision approvals shall be submitted to the respective boards and commissions as follows:

Planning Commission	Two weeks prior to next meeting.
City Council	Four weeks prior to next public hearing.
Board of Adjustment	Four weeks prior to next public hearing.
Appearance Commission	One week prior to next meeting.
Historic Preservation Commission	Four weeks prior to next public hearing.

2.2.5 APPLICATIONS TO BE COMPLETE.

All applications and accompanying plans for permits must be complete before the issuing authority will consider the application. Subject to subsection below, an application is complete when it contains all the information necessary for the issuing authority to decide whether the development, if completed as proposed, will comply with all the requirements of this Ordinance.

Detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks etc.) are set forth in one or more of the appendices or other sections of this Ordinance. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit issuing authority to evaluate the application in the light of the substantive requirements set forth in this Ordinance. However, whenever this Ordinance requires a certain element of the development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element shall begin until detailed construction drawings have been submitted to and been approved by the Department of Planning and Community Development. Failure to observe this requirement may result in permit revocation, denial of final plat approval or other penalty as provided in Section 4.0 (Enforcement).

2.2.6 STAFF CONSULTATION BEFORE FORMAL APPLICATION.

To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the planning staff may be required as provided by this Section. The applicant is encouraged to arrange a pre-application consultation at least ten days prior to the application deadline.

The Director of Planning and Community Development or his designee shall meet with the developer as soon as possible to review the proposed development plans. Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this Ordinance to the proposed development.

2.2.7 STAFF CONSULTATION AFTER THE APPLICATION HAS BEEN SUBMITTED

Upon receipt of a formal application for a special use, conditional use or sign permit approval, the Director of Planning and Community Development or his designee shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the requirements of this Ordinance, that he has submitted all of the information that he intends to, and

that the application and accompanying plans represents precisely and completely what he proposes to do.

If the application is for a special use or conditional use permit, the Director of Planning and Community Development shall place the application on the agenda of the appropriate Board when the applicant indicates the application is as complete as he intends to make it. However, if the Director of Planning and Community Development believes that the application is incomplete or finds substantial deficiencies in the submitted plans, he shall reject the application and inform the applicant of its deficiencies.

2.2.8 SPECIAL USE AND CONDITIONAL USE PERMITS CRITERIA FOR APPROVAL

An application and accompanying plans for a special or conditional use permit shall be submitted to the Board of Adjustment or City Council by filing a copy of the application with the Administrator in the Planning and Community Development Department.

Subject to subsection below, the Board of Adjustment or the Council shall issue the requested permit unless it concludes, based upon the information submitted at the hearing that;

1. The permit request is not within its review authority according to the table of permitted uses; or
2. The application is incomplete; or
3. If completed as proposed in the application the development will not comply with one or more requirements of this Ordinance, not including those requirements for which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Section 5.6 (Nonconforming Situations).

Even if the permit-issuing Board finds that the application complies with all the other provisions of this Ordinance, it may still deny the permit if it concludes, based upon information submitted at the hearing that if completed as proposed the development:

1. Will materially endanger the public health or welfare; or
2. Will substantially injure the beneficial use of adjoining or abutting property; or
3. Will not be in harmony with existing development and uses within the area in which it is located; or
4. Will not be in general conformity with the Comprehensive Plan, Thoroughfare Plan or other plan officially adopted by the Council.

2.2.9 PUBLIC HEARING REQUIRED

Before the City Council or Board of Adjustment makes a final determination on special or conditional use permits a public hearing shall be held in accordance with the procedures detailed in Section 3.2 (Quasi-Judicial Hearing Procedures).

2.2.10 RECOMMENDATIONS ON SPECIAL USE PERMIT APPLICATIONS

When presented to the Board of Adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the planning staff's findings concerning the application's compliance with the requirements of this Ordinance as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

If the staff proposes a finding or conclusion that the application fails to comply with any of the requirements of this Ordinance, it shall identify the requirement in question and specifically state the reasons supporting such a finding or conclusion.

2.2.11 RECOMMENDATIONS ON CONDITIONAL USE PERMIT APPLICATIONS

Following a joint public hearing of the Council and Planning Commission, an application for a conditional use permit shall be referred to the Planning Commission for action in accordance with this Section.

When presented to the Planning Commission, the application for a conditional use permit shall be accompanied by a report (verbal or written) setting forth the planning staff's findings concerning the application's compliance with the requirements of this Ordinance as well as any staff recommendations for additional requirements to be imposed by the Council. If the staff report proposes a finding or conclusion that the application fails to comply with any of the requirements of this Ordinance, it shall identify the requirement in question and specifically state the reasons supporting such a finding or conclusion.

The Planning Commission shall consider the application and supporting staff reports in a timely fashion and may, for clarification purposes, request additional information from the applicant or members of the public. After reviewing the application, the Planning Commission shall report to the Council whether it concurs in whole or in part with the staff's findings and proposed conditions. To the extent that there are differences, the Planning Commission shall propose its own recommendations and state the reasons supporting such a finding or recommendation. In response to the Planning Commission's recommendations, the applicant may modify his application prior to submission to the Council. The planning staff may likewise revise its recommendations.

2.2.12 CITY COUNCIL ACTION ON CONDITIONAL USE PERMITS

In considering whether to approve an application for a conditional use permit, the Council shall proceed according to the following format:

1. The Council shall consider whether the application complies with all the applicable requirements of this Ordinance. If a motion to this effect passes, the Council need not make further findings concerning such requirements and may issue the permit. If such a motion fails or is not made, a motion shall be made that the application be found not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the requirements that have not been met.
2. If the Council concludes that the application complies with all other provisions of this Ordinance, it may still deny the application for one or more of the reasons specified in Section 2.2.8 (Special Use and Conditional Use Permits Criteria for Approval). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

The Council vote need only achieve a simple majority of the members present to reach a decision.

2.2.13 BOARD OF ADJUSTMENT ACTION ON SPECIAL USE PERMITS

In considering whether to approve an application for a special use permit, the Board of Adjustment shall proceed in the same manner as the Council when considering a conditional use permit, except

that the format of the Board of Adjustment proceedings will differ as a result of the four-fifths voting requirement set forth in Section 8.2 (Board of Adjustment).

1. The Board shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes by the necessary four-fifths vote, the Board need not make any further findings and may issue the permit. If such a motion is not made or fails to receive the required four-fifths vote, then a motion shall be made that the application is not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the requirements the application failed to meet.
2. If the Board concludes that the application complies with all other provisions of this Ordinance, it may still deny the application for one or more of the reasons specified in Section 2.2.8 (Special Use and Conditional Use Permits Criteria for Approval). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

2.2.14 ADDITIONAL REQUIREMENTS ON SPECIAL USE AND CONDITIONAL USE PERMITS

In granting a special use or conditional use permit, the issuing Board may attach to the permit additional reasonable requirements beyond the provisions in this Ordinance, to ensure that the development in its proposed location:

1. Will not materially endanger the public health, safety or welfare; or
2. Will not substantially injure the beneficial use of adjoining or abutting property; or
3. Will be in harmony with existing development and uses within the area in which it is located;
or
4. Will be in general conformity with the Comprehensive Plan, Thoroughfare Plan or other plan officially adopted by the Council.

The permit issuing Board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance, unless the development in question presents extraordinary circumstances. Extraordinary circumstances may include unexpected conditions that negatively affect nearby residential uses or previously unrecognized external consequences that require mitigation. All additional conditions or requirements shall be entered on the permit and are enforceable in the same manner and same extent as any other requirement of this Ordinance.

Without limiting the foregoing, the permit issuing Board may attach to a permit a condition limiting the permit to a specified duration.

2.2.15 MAINTENANCE OF REQUIRED COMMON AREAS, IMPROVEMENTS AND FACILITIES

The recipient of any sign, special use permit, subdivision approval, site plan approval or conditional use permit or his successor, shall be responsible for maintaining all common areas, improvements and facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements and facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.

2.2.16 COMPLETING DEVELOPMENTS IN PHASES

If a development is constructed in phases in accordance with this Section the provisions of Section 2.2.2 (No Occupancy, Use or Sale of Lots until Requirements Fulfilled) and Section 2.12 (Improvement Guarantees) shall apply to each phase as if it were the entire development.

The developer shall submit plans that clearly show the various phases of the proposed development and that the requirements of this Ordinance will be satisfied by each phase.

If a development that is to be built in phases includes improvements that are designed to be used or benefit the entire development, then, as part of his application for development approval, the developer shall submit a proposed schedule for the completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases of the entire development. Once a schedule has been approved and made part of the permit, no land may be used, no building occupied and no subdivision lot sold except in accordance with the schedule approved as part of the permit and/or the requirements imposed by Section 2.12 (Improvement Guarantees).

2.2.17 EXPIRATION OF PERMITS

Special & conditional use permits and sign permits, not approved as part of the vested right certificate approval process detailed in Section 2.8 (Zoning Vested Rights Certificate Approval), shall expire automatically if, within one year after the issuance of the permit:

1. The use authorized by such permits has not commenced, in circumstances where no substantial (i.e. no building permit is needed) construction, alteration, demolition or similar work is necessary before commencement of such use; or
2. Less than ten percent of the total cost stated on the permit application (as determined by the Inspections Department) of all construction, alteration, demolition or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.

The Planning Director may grant a one-time extension of up to six (6) months from the original expiration date provided the owner or owner's agent submits a written request for an extension at least thirty (30) days prior to the expiration date.

If after some physical alteration to land or structures begins and work is discontinued for a period of six consecutive months, then the special use, conditional use or sign permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 2.2.18 (Effect of Permit on Successors and Assigns).

After approval of a site specific development plan and vested rights certificate, if no substantial physical alteration to land or structures has begun or the permitted use has not commenced, conditional use permits and special use permits shall expire at the end of the two-year vesting period established in accordance with Section 2.8 (Zoning Vested Rights Certificate Approval). Substantial shall mean either 1) installation and approval of on-site infrastructure or 2) lawful continuous grading activity that has not ceased for a period of thirty (30) days or longer.

All permits for conditional and special uses shall become invalid if the use for which the permit was issued is discontinued, abandoned or ceases for one hundred and eighty consecutive days.

For purposes of this Section, the special use permit within the jurisdiction of the Board of Adjustment is issued when the Board votes to approve the application and issues the permit. A conditional use permit within the jurisdiction of the City Council is issued when the Council votes to approve the application and issues the permit. A zoning or sign permit within the jurisdiction of the Administrator is issued when the earlier of the following takes places:

1. A copy of the fully executed permit is delivered to the permit recipient. Delivery is accomplished when the permit is hand delivered or mailed to the applicant; or
2. The Administrator notifies the applicant that the application has been approved and that all that remains for a fully executed permit to be delivered is for the applicant to take certain actions, such as having the permit executed by the property owner so it can be recorded under Section 2.2.19 (Effect of Permit on Successors and Assigns).

Notwithstanding any of the provisions of Section 5.6 (Nonconforming Situations), this Section shall be applicable to permits issued prior to the date this Section becomes effective.

2.2.18 EFFECTS OF PERMIT ON SUCCESSORS AND ASSIGNS

Special use, conditional use and sign permits authorize the permittee to make use of the land and structures in a particular way. Such permits are transferable. However, so long as the land, structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

1. No person shall make use of the land or structures covered under the permit except in accordance with all the terms and requirements of that permit; and
2. The terms and requirements of the permit apply to and restrict the use of the land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also to persons who subsequently obtain an interest in all or part of the covered property and wish to use it for a purpose other than that for which the permit was originally issued, so long as the person(s) who subsequently obtained an interest in the property had actual or record notice (as provided for below) of the existence of the permit at the time they acquired their interest.

2.2.19 AMENDMENTS TO AND MODIFICATIONS OF PERMITS

A developer/landowner requesting modifications to an approved permit shall submit a written request, describing and identifying the proposed changes, to the Administrator. Approval of all changes must be given in writing. The Administrator shall determine into which category the proposed modifications fall:

1. Insignificant deviation – A deviation is insignificant if it has no discernable impact on neighboring properties, the public or those intended to occupy or use the proposed development. Typical deviations may include small adjustments in the location of utilities, roadways, landscaping or structures to accommodate physical site conditions. No insignificant deviation shall require a variance from the requirements of this Ordinance. The Administrator without a formal application, public hearing or payment of an additional fee may approve this category.
2. Minor design modification – A modification that has no substantial impact on neighboring properties, the public or those intended to occupy or use the proposed development. Typical design modifications may include relocating internal intersections, adjusting parking

locations, small design adjustments to the building footprint or elevation, small modifications to the stormwater control system or landscaping plan. No minor design modification shall require a variance from any requirement of this Ordinance. The Administrator, without a formal application, public hearing or payment of an additional fee may approve this category.

3. Major design modification - All other requests for major changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Council or Board of Adjustment, new conditions may be imposed in accordance with Section 2.2.16 (Additional Requirements on Special and Conditional Use Permits). The applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may proceed in accordance with the previously issued permit. This category will be treated as a new application and shall require a formal application, an additional public hearing and the payment of additional fees.

A vested right established in accordance with Section 2.8 (Zoning Vested Rights Certificate Approval) shall not be extended by any amendment or modification to an approved site-specific development plan unless expressly provided for by the City Council.

2.2.20 REHEARING

Whenever the Administrator denies a zoning or sign permit, on any basis other than a failure of the applicant to submit a completed application, such action may be appealed to the Board of Adjustment by the person aggrieved within thirty days of the notification to deny the permit by following the procedures described in Section 3.1 (Appeals, Variances and Interpretations).

Whenever the City Council denies a conditional use permit or the Board of Adjustment denies a special use permit or variance, on any basis other than the failure of the applicant to submit a completed application, such action shall not be reconsidered by the respective issuing authority for a period of six months unless the applicant clearly demonstrates that:

1. Circumstances affecting the property have substantially changed; or
2. New information is available that could not, with reasonable diligence, have been presented at the previous hearing. A request to be heard on this basis must be filed within thirty days of the notification of the decision to deny the first application. However, such a request does not extend the period within which an official legal appeal must be filed with the superior court. (See Section 3.2.7 - Judicial review).

Notwithstanding subsection above, the Council, Board of Adjustment or Administrator may at any time consider a new application affecting the same property as an application previously denied. A new application is one that the City Council has determined differs in some substantial way from the one previously considered. For the purposes of determining fees, resubmission of an application shall be treated as a new application subject to new fees.

2.2.21 SECTION RESERVED

2.3 SUBDIVISION APPROVAL

2.3.1 REGULATION OF SUBDIVISION

Major subdivisions are subject to a two-step approval process including:

1. Physical improvements to the land being subdivided are authorized by a preliminary subdivision plat. Preliminary subdivision plats shall follow the approval process as provided in Section 2.3.4 of this Ordinance;
2. Sale of lots is permitted after final plat approval as provided in Section 2.3.9 (Major subdivision final plat approval process).

Minor subdivisions require a one-step approval process, final plat approval in accordance with Section 2.3.4 (Minor subdivision final plat approval process).

2.3.2 NO SUBDIVISION WITHOUT PLAT APPROVAL

As provided in GS 160A-375, no person shall subdivide land except in accordance with all of the provisions of this Ordinance. In particular, no person shall subdivide land unless a final plat of the subdivision has been approved in accordance with the provisions of Section 2.3.8 (Minor subdivision final plat approval process) or Section 2.3.9 (major subdivision final plat approval process) and recorded in the Wayne County Registry.

Whenever a final plat is approved to authorize development, nothing authorized by the final plat approval shall be done until the owner of the property records the plat in the Wayne County Registry, indexed under the book of maps and page number and returns a copy of the recorded plat to the Planning and Community Development Department.

As provided in GS 160A-373, the Wayne County Register of Deeds shall not record a plat of any subdivision within the City's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Ordinance.

2.3.3 EXCEPTIONS TO SUBDIVISION PLAT APPROVAL

The following activities are not required to undertake or follow the City's subdivision approval process. However, lots created under these exemptions shall fulfill all of the dimensional, size and other zoning requirements of this Ordinance. (Such as minimum lot sizes, road frontage, setbacks etc.) It is highly recommended that all exceptions to the subdivision process be reviewed by the Planning and Community Development Department for conformity with the City's subdivision regulations. Failure to do so may result in the recordation of non-conforming or illegal lots that may not be suitable for new construction.

1. The division of land to settle an estate where the resultant lots are equal to or exceed the standards of the City as shown in this Ordinance.
2. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City as shown in this Ordinance.
3. The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.
4. The public acquisition by purchase of strips of land for widening or opening streets.

5. The division of a tract in single ownership the entire area of which is no greater than two acres, into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the City as shown in this Ordinance.

2.3.4 ACTION ON MAJOR SUBDIVISION PRELIMINARY PLATS

Preliminary subdivision plats subject to City Council approval shall be reviewed by the Planning Commission prior to City Council action. After reviewing the recommendation of the Planning Commission and City staff, the City Council shall approve or reject the application.

The City Council may approve a preliminary plat if it meets the standards and requirements of this Ordinance and provides for the dedications and improvements, or payments and guarantees in lieu thereof, required by this Ordinance.

The City Council may reject the preliminary plat on any of the following grounds:

1. That it fails to fully comply with all applicable requirements of this Ordinance;
2. That it fails to adequately protect other property, or residential uses located on the same or adjacent property, from the potential adverse effects of a residential or non-residential use;
3. That it fails to provide harmony and unity with the development of nearby properties;
4. That it fails to provide safe conditions for pedestrians or motorists, such as a dangerous arrangement of pedestrian and vehicular ways; or
5. That it fails to provide safe ingress and egress for emergency services to the site.

The City Council may require additional road widening, road construction, traffic signals, restricted driveways, interconnectivity or other improvements if, in the opinion of the City Council, such improvements are necessary to provide safe conditions for pedestrians, motorists or adjoining properties.

The City Council may grant modifications to the road construction design standards and other requirements of Chapter 7 (Subdivision Regulations) provided the modifications will not cause any adverse impacts on the subject property or adjacent properties in the area.

If the City Council rejects the preliminary plat, then the reasons therefore shall be stated in the record of action on the plat.

2.3.5 CHANGES TO PREVIOUSLY APPROVED PRELIMINARY PLATS

The Planning and Community Development Director shall have the authority to approve revisions to a previously approved preliminary plat, provided the following conditions are met:

1. That all changes conform to the minimum required standards for the zoning district in which the property is located;
2. That the effect of the landscaping, buffers, or screening on the site, or on the approved preliminary plat, is not diminished;
3. That the number of access points to public streets is neither increased nor substantially relocated;
4. That the circulation pattern provides for the safe, controlled, and orderly flow of pedestrians and vehicles;

5. That the changes do not otherwise violate any provision of this Ordinance, the City Code, or other applicable laws; and
6. That the use and development of the property is otherwise in full compliance with the requirements of this Ordinance.

The Director shall reserve the authority to refer any proposed changes to a preliminary plat to the City Council if he feels any of the above standards are not being met.

2.3.6 FAILURE OF CITY COUNCIL TO ACT

Failure of the City Council to act on the preliminary plat within 90 days of receiving the preliminary plat and recommendations from the Planning Commission shall be deemed denial of the preliminary plat.

2.3.7 EFFECT AND DURATION OF PRELIMINARY SUBDIVISION PLAT APPROVAL

Preliminary plat approval shall remain valid for two years from the date of approval, unless an associated conditional use permit expires, in which case, the preliminary plat shall also expire. Preliminary subdivision plans commenced within the two-year period shall have all phases of the subdivision completed within five years of preliminary plat approval.

2.3.8 MINOR SUBDIVISION FINAL PLAT APPROVAL PROCESS

A minor subdivision is defined as a subdivision where all of the following conditions exist:

1. No public right-of-way dedication is necessary;
2. No variances are necessary or requested;
3. The subdivision has three lots or less; and
4. The entire tract to be subdivided is three acres or less in size.

The Planning and Community Development Director or his designee shall approve or disapprove minor subdivision final plats in accordance with the provisions of this Ordinance.

The applicant for minor subdivision plat approval, before complying with the subsection below, shall submit a preliminary plan to the Planning and Community Development Director for a determination of whether the approval process authorized by this Section may be and should be utilized. The Planning and Community Development Director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all the lots previously subdivided from that tract within the previous five years.

Applicants for minor subdivision approval shall submit to the Planning and Community Development Director a copy of a minor subdivision plat conforming to the requirements set forth in Appendix A. The Planning and Community Development Director shall take expeditious action on an application for a minor subdivision plat approval. However, either the Planning and Community Development Director or the applicant may at any time refer the application to the major subdivision approval process.

Not more than three (3) lots shall be created out of one tract using the minor subdivision approval process, regardless of whether the lots are created at one time or over an extended period of two (2) years.

If the subdivision fulfills all the requirements of this Ordinance, the Planning and Community Development Director shall approve it. If the subdivision does not fulfill one or more of the requirements of this Ordinance, the Planning and Community Development Director shall furnish the applicant with a written statement of the reasons for its disapproval.

2.3.9 MAJOR SUBDIVISION PLAT FINAL PLAT APPROVAL PROCESS

A major subdivision is defined as a subdivision where any one or more of the following exist:

1. Dedication of a public right-of-way or other public tracts;
2. The entire tract to be subdivided is greater than three (3) acres; or
3. The resultant subdivision will create four (4) or more lots.

The Planning and Community Development Director or his designee shall approve the final plat unless he finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved in conjunction with the preliminary plat that authorized the development of the subdivision.

Applicants for major subdivision approval shall submit to the Planning and Community Development Director a copy of a major subdivision final plat conforming to the requirements set forth in Appendix A. If the Planning and Community Development Director disapproves the final plat, the applicant shall be furnished a written statement of the reasons for disapproval.

2.3.10 PLAT APPROVAL NOT ACCEPTANCE OF DEDICATION OFFERS

Approval of a final plat does not constitute acceptance by the City of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the City may accept any such offer of dedication by resolution of the Council or by actually exercising control over and maintaining such facilities.

2.3.11 PLACEMENT OF PERMANENT REFERENCE POINTS

Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with the following requirements.

1. Subdivision corner tie - At least one control corner of the subdivision shall be designed by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or N. C. Grid System coordinated monument or City coordinated system, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this station or monument and to an accuracy of 1:10,000. When such a monument or station is not available, the tie shall be made to a pertinent, readily recognizable landmark, identifiable point, physical object or structure.
2. Monuments - Within each block of a subdivision, at least two monuments designed as control corners shall be installed. All monuments shall be constructed of concrete and shall be at least four inches in diameter or square and not less than three feet in length. Each monument shall be imbedded in the ground and flush with its top to serve as the point, a

- copper or bronze wire at least four inches in length and not less than .3249 (#0) in diameter. Such monument shall be set at least 30 inches in the ground with at least six inches exposed above the ground unless this requirement is impractical because of traffic or other factors. The surveyor shall employ additional monuments when required.
3. Property markers - A steel or wrought iron pipe or the equivalent not less than three-fourths inches in diameter and at least 30 inches in length shall be set at all corners, except those located by monuments. A marker shall be set at a point of curve, point of intersection, property corner, point of tangency, reference point and tangent unless a monument has already been placed at these points. Additional markers shall be placed at other points of importance when required.
 4. Accuracy - Land surveys within the City and the extraterritorial jurisdictional limits shall be at an accuracy of at least 1:10,000.

2.3.12 SECTION RESERVED

2.4 SITE PLAN APPROVAL

2.4.1 APPROVAL AUTHORITY FOR SITE PLANS

Nonresidential developments on parcels that disturb greater than one acre shall be approved by the City Council. Nonresidential developments on parcels that disturb one acre or less shall be approved by the Planning and Community Development Director.

Residential developments on parcels that disturb greater than one acre, excluding single-family dwellings, shall be approved by the City Council. The City Council shall not exercise the authority granted in this Section, until the Planning Commission has made its recommendations. Residential developments on parcels that disturb one (1) acre or less shall be approved by the Planning Director.

Notwithstanding the above, the Director shall at all times reserve the right to refer a new or revised site plan to the City Council for action where either of the following conditions is met:

1. The site plan seeks allowable deviations from the standards of this Ordinance; or
2. Due to its size and/or location, the Director feels the project will have significant negative impacts on the community.

The Director may also seek input from other boards and commissions to assist in making a decision on whether to approve or deny a site plan request.

The Director shall reserve the authority to refer any site plan to the City Council for approval.

2.4.2 DEVELOPMENT REQUIRING SITE PLAN APPROVAL

The following development shall be required to secure site plan approval prior to the issuance of a building permit or the initiation of site improvement:

1. Nonresidential, manufactured home park and multi-family development not otherwise required to undergo the subdivision review process as defined in Section 2.3 (Subdivision Approval).

2.4.3 SITE PLANS ASSOCIATED WITH CONDITIONAL USE PERMITS

Where a use requiring site plan approval also requires the approval of a conditional use permit, the same body (i.e. City Council) that approves the conditional use permit shall also approve the site plan. Site plan approval for projects that are required to receive a conditional use permit shall follow the same process as the conditional use permit process.

2.4.4 ACTION ON SITE PLANS APPROVED BY THE PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR

The Planning and Community Development Director shall approve the site plan provided that the following standards are met:

1. That it fully complies with all applicable requirements of this Ordinance;

2. That it adequately protects other property, or residential uses located on the same or adjacent properties, from the potential adverse effects of a nonresidential use;
3. That it provides harmony and unity with the development of nearby properties
4. That it provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways
5. That it provides safe ingress and egress for emergency services to site.

The Director may defer the decision on the site plan to the City Council when he or she deems that any of the above standards may not be met by the proposed plan. The Director may also choose to seek input from other Boards and Commissions to assist in making a final decision.

If the Planning and Community Development Director rejects the site plan, then the reasons therefore shall be stated in the record of action on the site plan.

2.4.5 ACTION ON SITE PLANS APPROVED BY THE CITY COUNCIL

Site plans subject to City Council approval shall be reviewed by the Planning Commission prior to City Council action. After reviewing the recommendation of the Planning Commission and City staff, the City Council shall approve or reject the application.

The City Council may approve a site plan if it meets the standards and requirements of this Ordinance and provides for the dedications and improvements, or payments and guarantees in lieu thereof, required by this Ordinance.

The City Council may reject the site plan on any of the following grounds:

1. That it fails to fully comply with all applicable requirements of this Ordinance;
2. That it fails to adequately protect other property, or residential uses located on the same or adjacent property, from the potential adverse effects of a residential or non-residential use;
3. That it fails to provide harmony and unity with the development of nearby properties;
4. That it fails to provide safe conditions for pedestrians or motorists, such as a dangerous arrangement of pedestrian and vehicular ways; or
5. That it fails to provide safe ingress and egress for emergency services to the site.

The City Council may grant modifications to the parking, setbacks, landscaping and other performance standards of this ordinance provided the modifications will not cause any adverse impacts on the subject property or adjacent properties in the area. All modifications to commercial, multi-family, office or industrial site plans shall be reviewed by the City Council regardless of lot size.

The City Council may attach, to the site plan approval, additional reasonable requirements beyond the provisions of this Ordinance.

If the City Council rejects the site plan, then the reasons therefore shall be stated in the record of action on the site plan.

2.4.6 CHANGES TO PREVIOUSLY APPROVED SITE PLANS

The Planning and Community Development Director shall have the authority to approve revisions to a previously approved site plans, including those approved by the City Council, provided the following conditions are met:

1. That all changes conform to the minimum required standards for the zoning district in which the property is located;
2. That off-street parking is not reduced below the minimum required by Section 6.1 of this Ordinance;
3. That all additions, alterations, and expansions shall be compatible with the existing or approved buildings, structures, and parking area;
4. That any additional required landscaping shall be comparable to the approved site plan and shall follow City specifications and guidelines;
5. That the effect of the landscaping, buffers, or screening on the site, or on the approved site plan, is not diminished;
6. That the number of access points to public streets is neither increased nor substantially relocated;
7. That the circulation pattern provides for the safe, controlled, and orderly flow of pedestrians and vehicles;
8. That the changes do not otherwise violate any provision of this Ordinance, the City Code, or other applicable laws; and
9. That the use and development of the property is otherwise in full compliance with the requirements of this Ordinance.

The Director shall reserve the authority to refer any proposed changes to a site plan to the City Council if he feels any of the above standards are not being met.

2.4.7 FAILURE OF CITY COUNCIL TO ACT

Failure of the City Council to act on the site plan within 90 days of receiving the site plan and recommendations from the Planning Commission shall be deemed denial of the site plan.

2.4.8 FAILURE OF PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR TO ACT

Failure of the Planning and Community Development Director to act on a completed application for site plan approval within 90 days of receiving the site plan shall be deemed denial of the site plan.

2.4.9 EFFECT AND DURATION OF SITE PLAN APPROVAL

Site plan approval shall remain valid for one year from the date of approval, unless the associated conditional use permit expires, in which case, the site plan shall expire also. Site plans approved in connection with a vested right shall be approved for a period not to exceed five (5) years.

2.5 CONDITIONAL DISTRICT REZONING APPROVAL

2.5.1 PURPOSE

Conditional zoning districts (CD) are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations and the adopted Comprehensive Land Use Plan. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties.

2.5.2 CONDITIONAL DISTRICTS ESTABLISHED

A parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name. The following parallel zoning district categories are conditional zoning districts:

Agricultural – AG CD
Residential – R-40 CD
Residential – R-20A CD
Residential – R-20 CD
Residential – R-16 CD
Residential – R-12SF CD
Residential – R-12 CD
Residential – R-9SF CD
Residential – R-9 CD
Residential – R-6SF CD
Residential – R-6 CD
Residential – RM-9 CD
Residential – RM-8 CD

Office-Residence – OR CD
Office and Institutional – O&I-1 CD
Office and Institutional – O&I-2 CD
Neighborhood Business – NB CD
Central Business District – CBD CD
Highway Business – HB CD
Shopping Center – SC CD
General Business – GB CD
Airport Business – AB CD
Light Industry – I-1 CD
General Industry – I-2 CD

The Planned Industrial and Business Park districts do not have a corresponding CD.

2.5.3 PROCEDURE

A rezoning to a CD shall be initiated only by an application signed by all the owners of the property or by an agent who has written authorization from all of the owners to file such application for such amendment.

The applicant shall submit an application for a CD along with a site plan that shall specify the use or uses that are intended for the property, as well as any additional conditions on the use of the property that the applicant proposes. The conditions may include, but shall not be limited to the location of uses on the site; number of dwelling units; location and extent of accessory and support facilities, such as sidewalks, parking, driveways, access streets; the extent and character of buffer areas; the location, character and extent of open space; the height of any structure; or the timing of the development. The City Council may waive the site plan requirement at the time of rezoning provided a site plan is approved by the City Council prior to the issuance of any construction approvals. A public hearing is not required for site plan approval unless specified as a condition of rezoning approval by the City Council.

All applications for CD's shall be submitted four weeks prior to the date of the next regularly scheduled meeting at which public hearings are held and applications reviewed.

2.5.4 STAFF CONSULTATION BEFORE FORMAL APPLICATION

To minimize development and planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the planning staff may be required as provided by this Section. The applicant is encouraged to arrange a pre-application consultation at least ten days prior to the application deadline.

The Planning and Community Development Director or his designee shall meet with the developer as soon as possible to review the conditional district application. Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this Ordinance to the proposed development.

2.5.5 STAFF REPORT

The planning staff shall review each CD rezoning request in light of the approval criteria listed in the Section below and provide to the City Council and/or Planning Commission its recommendation regarding whether to approve or deny the CD rezoning.

2.5.6 APPROVAL OF CONDITIONAL DISTRICT REZONING

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. In considering any petition for a conditional zoning district, the Council shall, after receiving the report and recommendation of the Planning Commission, consider the reports and recommendations of the Planning Commission, the Planning Commission staff, and other departments. Within ninety (90) days of the public hearing the City Council shall either reject the proposed amendment or adopt an ordinance enacting the proposed amendment with or without modifications.

In approving an amendment to reclassify property to a conditional zoning district, and with the consent of the petitioner, the City Council may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested, to a classification or classifications between the existing and the requested classifications, or to any higher classification in

the hierarchy of zoning districts established in Section 5.1. This action may occur without the withdrawal or modification of the petition or further public hearings.

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the City, County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. A rezoning to a CD is subject to the protest petition provisions as detailed in Section 3.3.4 of this code.

2.5.7 EFFECT OF APPROVAL

- (1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the ordinance requirements of the parallel general zoning district except those superseded by specific conditions, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Maps.
- (2) If a petition is approved, the petitioner shall comply with all requirements for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section 2.5.13 (Alterations to Approval). The changes to the site plan layout shall not increase the number of structures.
- (3) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "R-12 CD").
- (4) Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to N.C.G.S. Section 160A-385.1 for the period of time established pursuant to this Zoning Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section 160A-385.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to Section 2.8 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment or sexually-oriented business, unless the approved site plan explicitly provides that an adult establishment or sexually-oriented business is a permitted use.

- (5) Properties that receive Conditional District approval shall commence construction within two years of rezoning to a Conditional District. If no activity is commenced within two years of rezoning, then the approvals associated with the Conditional District shall be considered null and void and a new Conditional District shall be required to be approved by the City Council.

2.5.8 APPROVAL CRITERIA

In deciding whether to approve a Conditional District rezoning, the Planning Commission and the City Council shall consider the following factors:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is compatible with the City of Goldsboro Comprehensive Plan and accompanying Land Use Plan Map;
3. The proposed rezoning and the range of uses permitted in the requested zoning district are compatible with the surrounding zoning patterns and land uses;
4. The City or other service providers will be able to provide adequate public facilities and services intended to serve the subject property, including but not limited to roadways, public transportation, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater treatment and garbage services;
5. The proposed reclassification will not adversely affect a known archaeological, environmental, historical, or cultural resource; and
6. The proposed rezoning will not impair or injure the health, safety and general welfare of the public.

2.5.9 PUBLIC HEARING REQUIRED

Before the City Council makes a final determination on any CD rezoning, a public hearing shall be held in accordance with the procedures detailed in Section 3.3 (Legislative Hearing Procedures).

2.5.10 STAFF AND PLANNING COMMISSION REVIEW

The CD request shall be reviewed by the Planning Commission. At the Planning Commission's meeting, the staff shall present its recommendation. After taking into account the staff recommendation, and reviewing all other pertinent information, the Planning Commission shall formulate a recommendation for the City Council.

2.5.11 CITY COUNCIL ACTION ON CONDITIONAL DISTRICTS

After reviewing the reports and recommendations of the City staff and Planning Commission and considering the views discussed at the public hearing, the City Council shall take one of the following actions within ninety days of the public hearing:

1. Approve the CD, or
2. Approve the CD, but to a more restrictive district. (See below); or
3. Approve the CD, but with an alteration in the area requested or with additional conditions; or
4. Approve the CD, with a combination of 2 and 3 above; or
5. Reject the proposed CD; or
6. Refer the proposed CD back to the Planning Commission and City staff for further consideration.

The City Council, with or without a recommendation from the Planning Commission, may rezone the property to any conditional use zoning district that is classified higher than the requested conditional use zoning district in the application, but only with the written consent of the applicant. See Section 5.1 (General Use Zoning Districts) for a listing of districts from highest to lowest classification. An application for rezoning to a general use district shall not be converted into an application for rezoning to a conditional use district at any point in the application review process, nor shall an application for rezoning to a conditional use district be converted into an application for rezoning to a general use district. If such a conversion is desired, the applicant must submit a new application for rezoning to the other type of district in accordance with the requirements of this ordinance.

2.5.12 REHEARING

No reapplication, connected to the same property or any part thereof, for a rezoning to a CD shall be filed for a period of six months unless the City Council finds that there has been a substantial change in the conditions or circumstances bearing on the application.

2.5.13 ALTERATIONS TO APPROVAL

- (1) Except as provided in subsection two below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures in this Chapter.
- (2) The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties as provided for in Section 2.4.6 of this Code. An administrative amendment shall not be subject to a protest petition pursuant to Section 3.3. Any decision must be in writing stating the grounds for approval or denial.
- (3) The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and City Council consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.
- (4) Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an

approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Planning Director.

- (5) If the Planning Director or designee denies approval of the requested amendment, then the applicant can appeal that decision to the City Council for its review and decision. An appeal to Council will require filing a revised application and site plan, submittal of the required filing fee and another public hearing.
- (6) Changes to approved Special Use Permits associated with a Special Use District approved prior to the adoption of the Unified Development Ordinance shall be treated as a Conditional District as defined by the UDO and subject to the conditions of this chapter.

Any change that increases the intensity of the development or the residential density shall be approved by the City Council after a new public hearing.

2.5.14 JUDICIAL REVIEW

Every decision of the City Council granting, denying or revoking a conditional district rezoning shall be subject to review by the Superior Court of Wayne County by proceedings in the nature of certiorari.

The petition for the writ of certiorari must be filed with the Wayne County Clerk of the Court within thirty days after the following occurs:

1. A written copy of the Council's decision has been filed in the office of the Planning and Community Development Department; and
2. A written copy of the Council's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the City of Goldsboro.

2.5.14 SECTION RESERVED

2.6 REZONING APPROVAL

2.6.1 PURPOSE

The City Council in accordance with the procedures set forth in this Section, may amend/change the classification of a property appearing on the Official Zoning Map, also known as a “rezoning.” The purpose is not to relieve particular hardships, nor to confer special privileges, but only to make adjustments to the Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the City.

2.6.2 CONDITIONAL DISTRICT REZONINGS DIFFERENTIATED

This Section shall not apply to conditional district rezonings, which are covered in Section 2.5 (Conditional District Zoning Approval).

2.6.3 APPROVAL PROCEDURE

A rezoning may be initiated by any review or decision making body, any owner (or legally authorized agent) of a legal or equitable interest in land located in the City or its extraterritorial jurisdiction.

All applications for rezonings shall be submitted four weeks prior to the date of the next regularly scheduled meeting at which public hearings are held and applications reviewed. Such meetings, concerning amendments, rezonings or repeals are held monthly at the second regular meeting of the City Council or at a special meeting or meetings as fixed by the City Council.

An application may be withdrawn if a written request is submitted to the Department of Planning and Community Development at least three (3) business days before the first notice of public hearing publish date. Withdrawal requests received after the abovementioned deadline must be approved or denied by the City Council at the scheduled public hearing. If an application is allowed to be withdrawn a new application may not be submitted until the expiration of six months from the date of withdrawal. The Council, however, at its own discretion, may waive or modify the six month waiting period.

The City Council shall not permit an amendment to an application that would delete a portion of land sufficient to change the voting requirements for approval when a valid protest petition, as detailed in Section 3.3.4, has been filed or allow the withdrawal of an application when a valid protest petition as been filed.

When considering a rezoning application, neither the City Council nor Planning Commission shall evaluate the application based on any specific proposal for the use or development of the affected property. The applicant shall avoid using any graphic materials or descriptions of the proposed use or development except those that would apply to any use permitted in the requested district.

2.6.4 STAFF CONSULTATION BEFORE FORMAL APPLICATION

To minimize development and planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the planning staff may be required as provided by this Section. The applicant is encouraged to arrange a pre-application consultation at least ten days prior to the application deadline.

2.6.5 STAFF REPORT

The planning staff shall review each rezoning request in light of the approval criteria listed in the Section below and provide to the City Council and/or Planning Commission its recommendation regarding whether to approve or deny the rezoning.

2.6.6 APPROVAL CRITERIA

In deciding whether to approve a rezoning, the Planning Commission and the City Council shall consider the following factors:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact.
2. The proposed rezoning is compatible with the City of Goldsboro Comprehensive Plan and accompanying Land Use Plan Map.
3. The proposed rezoning and the range of uses permitted in the requested zoning district are compatible with the surrounding zoning patterns and land uses.
4. The City or other service providers will be able to provide sufficient public safety service, meet transportation and utility demands to the subject property, while maintaining sufficient levels of service to existing developments.
5. The proposed rezoning will not impair or injure the health, safety and general welfare of the public.

2.6.7 PUBLIC HEARING REQUIRED

A public hearing shall be held in accordance with the procedures detailed in Section 3.3 (Legislative Hearing Procedures).

2.6.8 STAFF AND PLANNING COMMISSION REVIEW

Following the public hearing, the rezoning request shall be reviewed by the Planning Commission. At the Planning Commission's meeting, the staff shall present its recommendation. After taking into account the staff recommendation, and reviewing all other pertinent information, the Planning Commission shall formulate a recommendation for the City Council.

2.6.9 CITY COUNCIL ACTION ON REZONINGS

After reviewing the reports and recommendations of the City staff and Planning Commission and considering the views discussed at the public hearing, the City Council shall, within ninety days of the public hearing, based on the approval criteria listed in Section 2.6.6 (Approval Criteria), do one of the following:

1. Approve the rezoning; or
2. Approve the rezoning, but to a more restrictive district (See below); or
3. Approve the rezoning, but with a reduction in the area requested; or
4. Approve the rezoning with a combination of 2 and 3 above; or
5. Reject the proposed rezoning; or
6. Refer the proposed rezoning back to the Planning Commission and City staff for further consideration.

The City Council, with or without a recommendation from the Planning Commission, may rezone the property to any zoning district that is classified higher and more restrictive than the requested

district in the application, but only with the written consent of the applicant. See Section 5.1.3 (General Use Districts) for a listing of districts from highest to lowest classification.

2.6.10 REHEARING

No reapplication, connected to the same property or any part thereof, for a rezoning shall be filed until the expiration of six months from the date of denial, unless the City Council finds that there has been a substantial change in the conditions or circumstances bearing on the application. The six-month waiting period shall not be applicable or otherwise be involved in the filing of a new application for a change of zone for all or any part of the property previously considered by the City Council where the new application requests a change of zone to a more restrictive zoning district classification.

2.6.11 JUDICIAL REVIEW

Every decision of the City Council granting, denying or revoking a legislative rezoning or text amendment shall be subject to review by the Superior Court of Wayne County by proceedings in the nature of certiorari.

The petition for the writ of certiorari must be filed with the Wayne County Clerk of the Court within thirty days after the following occurs:

1. A written copy of the Council's decision has been filed in the office of the Planning and Community Development Department; and
2. A written copy of the Council's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the City of Goldsboro.

2.6.12 SECTION RESERVED

2.7 ORDINANCE TEXT AMENDMENT APPROVAL

2.7.1 PURPOSE

The City Council in accordance with the procedures set forth in this Section, may amend the text of this Ordinance. The purpose is not to relieve particular hardships, nor to confer special privileges, but only to make adjustment to the text of this Ordinance that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the City.

2.7.2 APPROVAL PROCEDURE

An amendment to the text of this Ordinance may be initiated by any review or decision making body, city staff, any owner (or legally authorized agent) of a legal or equitable interest in land located in the City or its extraterritorial jurisdiction.

All applications for text amendments shall be submitted four weeks prior to the date of the next regularly scheduled meeting at which public hearings are held and applications reviewed. Such meetings, concerning amendments, rezonings or repeals are held monthly at the second regular meeting of the City Council or at a special meeting or meetings as fixed by the City Council.

All applications for text amendments shall include a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the exact wording of the proposed change and the reasons therefore.

2.7.3 STAFF CONSULTATION BEFORE FORMAL APPLICATION

To avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the planning staff may be required as provided by this Section. The applicant is encouraged to arrange a preapplication consultation at least ten days prior to the application deadline.

2.7.4 STAFF REPORT

The planning staff shall review each text amendment request in light of the approval criteria listed in the Section below and provide to the City Council and/or Planning Commission its recommendation regarding whether to approve or deny the text amendment after the public hearing.

2.7.5 APPROVAL CRITERIA

In deciding whether to approve a text amendment, the Planning Commission and the City Council shall consider the following factors:

1. Whether the proposed amendment corrects an ambiguity or error or meets the challenge of some changing condition, trend or fact;
2. Whether the proposed amendment is consistent with the Comprehensive Plan and associated Land Use Plan Map; and
3. Whether the proposed amendment will impair or injure the health, safety and general welfare of the public.

2.7.6 PUBLIC HEARING REQUIRED

A public hearing shall be held in accordance with the procedures detailed in Section 3.3 (Legislative Hearing Procedures).

2.7.7 STAFF AND PLANNING COMMISSION REVIEW

Following the public hearing, the text amendment request shall be reviewed by the Planning Commission. At the Planning Commission’s meeting, the staff shall present its recommendation. After taking into account the staff recommendation, and reviewing all other pertinent information, the Planning Commission shall formulate a recommendation for the City Council.

2.7.8 CITY COUNCIL ACTION ON TEXT AMENDMENTS

After reviewing the reports and recommendations of the City staff and Planning Commission and considering the views discussed at the public hearing, the City Council shall, within ninety days of the public hearing, based on the approval criteria listed in Section 2.7.5 (Approval Criteria), do one of the following:

1. Approve the text amendment as written; or
2. Approve the text amendment, with modifications; or
3. Reject the text amendment; or
4. Refer the proposed text amendment back to the Planning Commission and/or City staff for further consideration.

2.7.9 REHEARING

No reapplication, connected to the same or substantially the same issue, for a text amendment shall be filed until the expiration of six months from the date of denial, unless the City Council finds that there has been a substantial change in the conditions or circumstances bearing on the application.

2.7.10 JUDICIAL REVIEW

Every decision of the City Council granting, denying or revoking a legislative rezoning or text amendment shall be subject to review by the Superior Court of Wayne County by proceedings in the nature of certiorari.

The petition for the writ of certiorari must be filed with the Wayne County Clerk of the Court within thirty days after the following occurs:

1. A written copy of the Council’s decision has been filed in the office of the Planning and Community Development Department; and
2. A written copy of the Council’s decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the City of Goldsboro.

2.7.11 SECTION RESERVED

2.8 ZONING VESTED RIGHTS CERTIFICATE APPROVAL

2.8.1 PURPOSE

The purpose of this Section is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness in the land-use planning process and to protect the reasonable expectations of landowners in recognition that City approval typically follows significant investment in the form of site evaluation, consultant fees and planning expenses.

2.8.2 ESTABLISHMENT

Pursuant to the provisions of GS 160A-385.1, a statutory zoning vested right is established upon the approval of a site-specific development plan. A zoning vested right certificate grants the landowner a right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

A vested right shall be deemed established upon the valid approval or conditional approval, by the City Council, of a site specific development plan following notice and a public hearing.

The approval of a site-specific development plan with the condition that a variance be obtained shall not establish a zoning vested right unless and until the necessary variance is obtained. The effective date of the establishment of the vested right shall be the date on which the variance was granted.

A zoning vested right is not a personal right, but shall attach and run with the land. After approval of a site-specific development plan, all successors to the original owner shall be entitled to exercise such rights while applicable.

The City Council may approve a site-specific development plan upon such terms and conditions as may be reasonably necessary to protect the public health, safety and welfare.

2.8.3 APPROVAL PROCEDURE

A zoning vested right certificate shall be initiated only by an application signed by all the owners of the property or by an agent authorized by all of the owners to file such application for such certificate.

In order for a zoning vested right certificate to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form provided by the City of Goldsboro, that a zoning vested right certificate is being sought.

Each map, plat site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under GS 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until_____."

All applications for zoning vested right certificates shall be submitted four weeks prior to the date of the next regularly scheduled meeting at which public hearings are held and applications reviewed.

A zoning vested right certificate application shall be processed in accordance with the procedures established by this Ordinance and shall be considered by the designated issuing authority using the prescribed process for the specific type of permit or approval for which the zoning vested right certificate is requested.

Following approval or conditional approval of a site specific development plan, nothing in this Ordinance shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the term and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

The establishment of a zoning vested right shall not preclude the application of overlay zoning or regulations that are general in nature and apply to all property within the City's jurisdiction. Otherwise, new or amended regulations shall not be applied to property that is subject to a site-specific development plan until the expiration or termination of the vested right in accordance with this Ordinance.

Nothing in this Ordinance shall prohibit the revocation of the original approval or other remedies for failure to comply with all the applicable terms and conditions of the approval or the Unified Development Ordinance.

2.8.4 PUBLIC HEARING REQUIRED

A public hearing shall be held in accordance with the procedures detailed in Section 3.3 (Legislative Hearing Procedures).

2.8.5 STAFF AND PLANNING COMMISSION REVIEW

Following the public hearing, the vested rights certificate request shall be reviewed by the Planning Commission. At the Planning Commission's meeting, the staff shall present its recommendation. After taking into account the staff recommendation, and reviewing all other pertinent information, the Planning Commission shall formulate a recommendation for the City Council.

2.8.6 CITY COUNCIL ACTIONS ON ZONING VESTED RIGHTS CERTIFICATES

After reviewing the reports and recommendations of the City staff and the Planning Commission and considering the views discussed at the public hearing, the City Council shall, within ninety days of the public hearing, based on the information contained in the site specific development plan, do one of the following:

1. Approve the site-specific development plan; or
2. Approve the site-specific development, with conditions; or
3. Reject the site specific development; or
4. Refer the site-specific development back to the Planning Commission and/or City staff for further consideration.

2.8.7 REHEARING

No reapplication, connected to the same property or any part thereof, for a vested right certificate shall be filed until the expiration of six months from the date of denial, unless the City Council finds that there has been a substantial change in the conditions or circumstances bearing on the application as stated in Section 2.2.20.

2.8.8 DURATION

A zoning right that has been vested as provided in this Ordinance shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

The City of Goldsboro may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted, in light of all relevant circumstances including but not limited to the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions.

A right that has been vested as provided in this Section shall terminate at the end of the vesting period with respect to buildings and/or uses for which no valid building permits have been issued.

2.8.9 TERMINATION

A zoning right that has been vested as provided in this Ordinance shall terminate:

1. With the written consent of the affected landowner; or
2. Upon findings by the City Council by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan; or
3. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner including but not limited to all fees paid in consideration of financing and all architectural, planning, marketing, legal, and other consultants' fee incurred after approval by the City, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action; or
4. Upon findings by the City Council by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the issuing authority of the site specific development plan; or
5. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify by ordinance after notice and a hearing the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.

2.8.10 VOLUNTARY ANNEXATION

A petition for annexation filed with the City of Goldsboro under GS 160A-31 or GS 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under GS 160A-385.1 or GS 153A-344.1. A statement that declares that no zoning vested right has been established under GS 160A-385.1 or GS 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

2.8.11 LIMITATIONS

Nothing in this Ordinance is intended or shall be deemed to create any vested right other than those established pursuant to GS 160A-385.1.

2.8.12 REPEALER

In the event that GS 160A-385.1 is repealed, this Section of this Ordinance shall be deemed repealed and the provisions hereof no longer effective.

2.8.13 SECTION RESERVED

2.9 ZONING COMPLIANCE CERTIFICATE APPROVAL

2.9.1 PURPOSE

A zoning compliance certificate is required to ensure that a proposed development complies with all the applicable standards of this Ordinance.

2.9.2 APPROVAL PROCEDURE

A certificate of zoning compliance shall be required prior to approval of all residential and non-residential building permits not covered by any other approval process in this Ordinance and before the issuance of the final certificate of occupancy for all projects. A zoning compliance certificate shall also be required for any change in use or change in occupancy that triggers additional off-street parking, landscaping, buffering or other requirements in accordance with this Ordinance.

An application for a certificate of zoning compliance shall be filed with the Planning and Community Development Department on a form prescribed by the department.

2.9.3 STAFF REPORT

The planning/inspections/engineering staff shall review zoning compliance requests in light of the approval criteria listed below and provide to the Planning and Community Development Director its recommendation regarding whether to approve or reject the zoning compliance certificate.

2.9.4 APPROVAL CRITERIA

The approval criteria for a zoning compliance certificate shall be all the zoning standards contained in this Ordinance that are applicable to the proposed use and type of development.

2.9.5 PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR ACTION ON ZONING COMPLIANCE CERTIFICATES

After reviewing the recommendations of the staff and within thirty days of the receipt of a completed application, the Planning and Community Development Director shall:

1. Approve the application as made; or
2. Approve the application with modification; or
3. Reject the application.

2.9.6 REHEARING

If the Planning and Community Development Director decides to reject the application, the applicant shall have thirty days from the date of rejection to submit a corrected application without paying another application fee. If a corrected application is not resubmitted within thirty days, the application shall be considered withdrawn and a new application fee shall be required for future submissions.

2.9.7 APPEAL

Any person aggrieved may appeal any order or decision of the Administrator, Inspector or his designee to the Board of Adjustment. An appeal is taken by filing with the Administrator and the Board of Adjustment a written notice of appeal specifying the reasons for the appeal. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the Planning and Community Development Department. The date and time of the filing shall be

entered on the notice by the planning staff. An appeal must be taken within thirty days after the date of the decision or order appealed from.

2.10 BUILDING PERMIT APPROVAL

2.10.1 PURPOSE

The building permit is required to ensure that the proposed development shall comply with all of the applicable standards of the current North Carolina Building Code and the regulations of this and other applicable sections of the Goldsboro City Code of Ordinances.

2.10.2 APPROVAL PROCEDURE

No building or structure or any part thereof shall be erected, enlarged or structurally altered, nor shall any excavation, soil removal, disturbance of vegetation including trees, filling or grading be commenced (in connection with site development), nor shall any sign be erected, repaired or painted except in conformance with the provisions and standards of this Ordinance and/or the terms and conditions of any other permits, approvals, or variances granted pursuant to this Ordinance.

An application for a building permit shall be filed only by the owner of the lot on which the building or structure is located or an agent, lessee or contract purchaser specifically authorized by the owner to file such an application.

An application for a building permit shall be filed with the Inspections Department on a form prescribed by the department. Site plans shall be submitted and approved by the Planning and Engineering Departments prior to the issuance of a building permit. A certificate of zoning compliance is required for any project that has not previously been reviewed by the planning and engineering departments as part of any other approval process.

No building permit shall be issued for any proposed development until the applicant has filed a statement of its intended use.

Each application for a building permit shall be accompanied by a plat or site plan, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot and such other information as may be necessary to determine the project's compliance with this Ordinance.

Where any ordinance or construction code of the City or any provision of the General Statutes of North Carolina requires that work be done by a licensed specialty contractor of any kind, no building permit for such work shall be issued unless it is to be performed by such licensed contractor. Before any work begins pursuant to the building permit, the applicant shall furnish the inspections department with the names of all the contractors and subcontractors who will be performing the work.

The building permit shall be conspicuously displayed by the applicant on the property for which it was obtained in the manner prescribed by the inspections department. The building permit shall remain so posted until the applicant has obtained a permanent certificate of occupancy.

Any building permit issued by the inspections department shall become null and void unless the work approved by the permit is commenced within six months after the date of issuance, as shown on the permit. No work shall be considered to have commenced for the purposes of this paragraph until an inspection has been made and recorded. All building permits shall become null and void after their six month issuance date, unless the specific inspector for that particular trade allows the permit to be extended, which shall be done in six month increments.

2.10.3 APPROVAL CRITERIA

The proposed development shall comply with all of the applicable standards of the North Carolina Building Code and the regulations of this and other applicable sections of the Goldsboro Code of Ordinances.

2.10.4 CHANGES TO APPROVED PERMITS

After a building permit has been issued, no substantial changes or deviations from the terms of the permit or the application and accompanying plans and specifications shall be made without specific written approval of such changes by the appropriate city department.

2.10.5 REVOCATION OF A BUILDING PERMIT

The inspections department may revoke and require the return of any building permit by notifying the permit holder in writing, stating the reasons for such revocation. The department shall revoke building permits for any of the following reasons:

1. Any material departure from the approved application, plans or specification;
2. Refusal or failure to comply with the requirements of this Ordinance or any other applicable state, federal or local laws; or
3. False statements or misrepresentations made in securing such permit.

2.10.6 APPEALS.

Any person aggrieved may appeal any order or decision of the Administrator, Inspector or his designee to the Board of Adjustment. An appeal is taken by filing with the Administrator and the Board of Adjustment a written notice of appeal specifying the reasons for the appeal. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the Planning and Community Development Department. The date and time of the filing shall be entered on the notice by the planning staff. An appeal must be taken within thirty days after the date of the decision or order appealed from.

2.10.7 SECTION RESERVED

2.11 CERTIFICATE OF OCCUPANCY APPROVAL

2.11.1 PURPOSE

The certificate of occupancy is required to ensure the completed development has complied with all of the applicable standards of the current North Carolina Building Code and the regulations of this and other sections of the Goldsboro City Code of Ordinances.

2.11.2 APPROVAL PROCEDURE

A new building or part thereof, an addition or enlargement of any existing building or an existing building may be occupied after being moved or altered or a change in the use or occupancy of any building may be made only after the inspections department has issued a certificate of occupancy, stating that the building, site and/or proposed use complies with the provisions of this Ordinance, including any applicable regulations applying to the proposed use and/or the zoning district in which the use is to be located.

No certificate of occupancy shall be issued until the Planning and/or Engineering Department issues a certificate of zoning compliance that certifies that the site improvements have been completed in accordance with the approved plans and that the proposed use is in conformance with the provisions of this Ordinance.

The Inspections Department shall issue a certificate of occupancy when, after inspection of the building, structure, landscaping and/or changes to the property, the department finds that the building complies with all the applicable provisions of this Ordinance, any other applicable ordinances and the current North Carolina Building Code.

No final Certificate of Occupancy shall be granted for projects that require a site plan or subdivision plat until an as-built utility plan is submitted to the City of Goldsboro Engineering Department. The as-builts shall be submitted on paper and in electronic format.

2.11.3 APPROVAL CRITERIA

The approval criteria for a certificate of occupancy shall be all the zoning standards and regulations, the current North Carolina Building Code, all other applicable State and Federal regulations and other sections of the Goldsboro Code of Ordinances that are applicable to the proposed use, building, structure and/or type of development.

2.11.4 VIOLATIONS

Any person or persons who occupies or uses a building prior to the issuance of a certificate of occupancy shall be in violation of this section and be subject to the penalties and remedies as outlined in Section 4.0 (Enforcement).

2.11.5 APPEALS

Any person aggrieved may appeal any order or decision of the Administrator, Inspector or his designee to the Board of Adjustment. An appeal is taken by filing with the Administrator and the Board of Adjustment a written notice of appeal specifying the reasons for the appeal. A notice of appeal shall be considered filed with the Administrator and the Board of Adjustment when delivered to the Planning and Community Development Department. The date and time of the filing shall be

entered on the notice by the planning staff. An appeal must be taken within thirty days after the date of the decision or order appealed from.

2.11.6 SECTION RESERVED

2.12 IMPROVEMENT GUARANTEES

2.12.1 AGREEMENT

In lieu of meeting the requirement for the completion, installation and dedication of any and all improvements (e.g., landscaping, water, sewer, street lights, etc.) prior to final plat approval for subdivisions or certificate of occupancy for zoning, vested rights, zoning compliance, special use and conditional use permits, the City of Goldsboro or its authorized agent may enter into a written agreement with the developer whereby the developer shall agree to complete and warrant all required improvements. Once both parties sign the agreement and the security required herein is provided, the final plat or certificate of occupancy may be approved by the issuing authority, Zoning Administrator or authorized agent, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide either one or a combination of the following guarantees equal to the entire cost of the improvements secured.

2.12.2 SURETY PERFORMANCE BOND(S)

The developer shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina, and approved by the Planning Director. The bond shall be payable to the City of Goldsboro (or its authorized agent) and shall be in an amount equal to the entire cost, as estimated by the developer and verified by the City, of installing all required improvements. The duration of the bond(s) shall be up to one year after the City accepts the improvements. Any expenses associated with the cost verification by the City shall be paid entirely by the developer.

2.12.3 CASH OR EQUIVALENT SECURITY

The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the City or its authorized agent or in escrow with a financial institution designated as an official depository of the City. The amount of deposit shall be equal to the entire cost, as estimated by the developer, and verified by the City, of installing all required improvements. Any expenses associated with the cost verification by the City shall be paid entirely by the developer. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the City of Goldsboro (or its authorized agent) an agreement between the financial institution and himself guaranteeing the following:

1. That said escrow amount will be held in trust until released by the City of Goldsboro and may not be used or pledged by the developer in any other transaction during the term of the escrow; and
2. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification of the City to the financial institution of an estimate of the amount needed to complete the improvements, immediately pay to the City the funds estimated to complete the improvements, up to the full balance of the escrow

account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

2.12.4 RELEASE OF GUARANTEE SECURITY

The City may release a portion of any security posted as the improvements are completed and recommended for approval by the Planning Director. Within thirty days after receiving the Planning Director's recommendation, the City Engineer shall approve or disapprove said improvements. When the City Engineer approves said improvements, the City shall immediately release the portion of the security posted which covers the cost of the approved improvements.

2.12.5 MAINTENANCE WARRANTY

The applicant shall warrant the improvements against defects in workmanship and materials for a period of one year from the date of acceptance of such improvements. In exceptional situations, where undue hardship would otherwise result and the shorter term would not be inconsistent with the purposes of this Ordinance, the City Engineer may approve a shorter-term maintenance guarantee. The maintenance guarantee shall be secured by a surety bond or cash escrow in an amount reflecting five percent of the cost of the completed improvements.

If necessary, the applicant shall construct and pay for all costs of any temporary improvements required by the City Engineer and shall maintain said temporary improvements for the period specified by the City Engineer.

Thirty days prior to the expiration of the maintenance guarantee instrument, if any defects in workmanship and/or materials are not repaired to the satisfaction of the City Engineer, the applicant/developer shall be required to make all necessary repairs immediately.

2.12.6 DEFAULT

Upon default, meaning failure on the part of the developer to complete or warrant the required improvements in the time required by this Ordinance or as spelled out in the performance bond or escrow agreement, then the surety, or financial institution holding the escrow account, shall pay all or any portion of the bond or escrow fund to the City of Goldsboro up to the amount needed to complete the improvements based on an estimate by the City. Upon payment, the City, in its discretion, may expend such portion of said funds, as it deems necessary to complete or repair all or any portion of the required improvements. The City shall return to the developer any funds not spent in completing the improvements.

2.12.7 SECTION RESERVED

2.13 WATERSHED PROTECTION APPROVALS

2.13.1 PERMITS REQUIRED

Within certain areas of the City designated as Watershed Areas - (Critical Area) or (Protected Area) additional permits are needed for certain types of land disturbing activities. Except where a single family residence is constructed on a lot deeded prior to the effective date of this ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of Section 5.8 (Water Supply Watershed Protection Overlay District).

Where development exceeds either two residential units per acre or 24 percent built upon area, a High Density Development Permit shall be required. High Density Development Standards are outlined in Sections 5.8.6 – 5.8.13 of this Ordinance.

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit or High-Density Development Permit is required until that permit has been issued.

The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of Section 5.8 of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

Watershed Protection Permits are issued under this Ordinance only when the application and necessary plans have been submitted and indicate that the development will comply with the provisions of this Ordinance. Such plans and applications as are finally approved are incorporated into any permit issued. All development shall occur strictly in accordance with approved plans and applications.

All permits shall be issued in the name of the applicant or the principal, if submitted by an agent. The permit shall identify the property involved, the proposed use, incorporate by reference the plans submitted and contain any special conditions or requirements lawfully imposed by the permit issuing authority.

2.13.2 NO OCCUPANCY, USE OR SALE OF LOTS UNTIL REQUIREMENTS FULFILLED

Issuance of a Watershed Protection Permit authorizes the applicant to commence the activity resulting in a change in use of the land or, with a building permit, to construct, erect, move or alter buildings or other structures or to make necessary improvements to a subdivision. However, except as provided in Section 2.12 (Improvement Guarantees), the intended use shall not be commenced, no building shall be occupied and in the case of subdivisions, no lots shall be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the approval of a site plan or subdivision have been complied with.

2.13.3 WHO MAY SUBMIT PERMIT APPLICATIONS/SUBMISSION REQUIREMENTS?

Applications for Watershed Protection Permits and High Density Development Permits will be accepted only from persons having the legal authority to take action in accordance with the permit or subdivision plat approval. By way of illustration, this means that applications should be made by the owners, their agents, lessees or persons who have contracted to purchase the property contingent upon permit approval. The Watershed Administrator may require an applicant to submit evidence of his authority to make the application, whenever there appears to be a reasonable basis for questioning this authority.

2.13.4 APPLICATION DEADLINES

All applications for permits requiring Planning Commission, City Council or Watershed Review Board or administrative review shall be submitted to the Watershed Administrator four weeks prior to the date of the meeting at which the application will be reviewed.

2.13.5 APPLICATIONS TO BE COMPLETE

All applications and accompanying plans for permits must be complete before the issuing authority will consider the application. An application is complete when it contains all the information necessary for the issuing authority to decide whether the development, if completed as proposed, will comply with all the requirements of this Ordinance.

2.13.6 STAFF CONSULTATION BEFORE FORMAL APPLICATION

To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the planning staff may be required. The applicant is encouraged to arrange a pre-application consultation at least ten days prior to the application deadline.

The Administrator shall meet with the developer as soon as possible to review the preliminary plan. Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this Ordinance to the proposed development.

2.13.7 STAFF CONSULTATION AFTER THE APPLICATION HAS BEEN SUBMITTED

Upon receipt of a formal application for a Watershed Protection Permit, the Administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the requirements of this Ordinance, that he has submitted all of the information that he intends to, and that the application and accompanying plans represents precisely and completely what he proposes to do. However, if the Administrator believes that the application is incomplete, he shall reject the application and inform the applicant of its deficiencies.

2.13.8 GENERAL THRESHOLDS FOR DETERMINING APPROVAL AUTHORITY

The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

The City Council may approve high density development proposals consistent with the following standards:

(1) WS-IV Watershed Areas- Critical Area (WS-IV-CA). Where new development exceeds either 2 dwelling units per acre or 24% built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed 50% built-upon area.

(2) WS-IV Watershed Areas- Protected Area (WS-IV-PA). Where new development exceeds either 2 dwelling units per acre or 24% built-upon area or 3 dwelling units per area or 36% built-upon area for projects without curb and gutter street systems, engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed 70% built-upon area.

Application for a High Density Development shall be approved by the City Council.

2.13.9 WATERSHED PROTECTION PERMITS CRITERIA FOR APPROVAL

A completed application form and the accompanying plans for a Watershed Protection Permit shall be submitted by filing a copy of the application with the Watershed Administrator in the Planning and Community Development Department. A Watershed Protection Occupancy Permit, either for the whole or part of a building shall be applied for coincident with the application for the Watershed Protection Permit, and shall be issued or denied within ten (10) days after the erection or structural alterations of the building have been satisfactorily completed. The Watershed Administrator shall issue the Watershed Protection Permit unless he finds, after reviewing the application and consulting with the applicant that:

- 1) The permit request is not within his review authority according to the general thresholds for approval; or
- 2) The application is incomplete; or
- 3) If completed as proposed in the application the development will not comply with one or more requirements of this Ordinance, with special attention to Section 5.8 of this Ordinance.

2.13.10 COUNCIL ACTIONS ON HIGH DENSITY DEVELOPMENT PERMITS

In considering whether to approve an application for a High Density Development Permit, the Council shall proceed according to the following format. The Council vote need only achieve a simply majority to reach a decision.

The Council shall consider whether the application complies with all the applicable requirements of this Ordinance. If a motion to this effect passes, the Council need not make further findings concerning such requirements and may issue the permit. If such a motion fails or is not made, a motion shall be made that the application be found not in compliance with one or more of the requirements of this Ordinance. Such a motion shall specify the requirements that have not been met.

If the Council concludes that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon information submitted, that, if completed as proposed, the development:

1. Will materially endanger the public health or welfare; or
2. Will substantially injure the beneficial use of adjoining or abutting property; or

3. Will not be in harmony with existing development and uses within the area in which it is located; or
4. Will not be in general conformity with the Comprehensive Plan, Thoroughfare Plan or other plan officially adopted by the Council.

Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

2.13.11 WATERSHED REVIEW BOARD ACTIONS ON WATERSHED PROTECTION PERMITS

The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance. The Watershed Review Board shall have the power to authorize, in specific cases as set forth in Section 5.8.4.7 of this ordinance, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

In considering whether to approve an application for a variance to a Watershed Protection Permit, the Watershed Review Board shall proceed in the manner set forth in Section 5.8.4.7 of this Ordinance

2.13.12 EXPIRATION OF PERMITS

A Watershed Protection Permit shall expire if a Building Permit for such use is not obtained by the applicant within one (1) year from the date of issuance.

2.13.13 EFFECTS OF PERMIT ON SUCCESSORS AND ASSIGNS

Watershed Protection Permits authorize the permittee to make use of the land and structures in a particular way. Such permits are transferable. However, so long as the land, structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

1. No person shall make use of the land or structures covered under the permit except in accordance with all the terms and requirements of that permit; and
2. The terms and requirements of the permit apply to and restrict the use of the land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also to persons who subsequently obtain an interest in all or part of the covered property and want to use it for a purpose other than that for which the permit was originally issued, so long as the person(s) who subsequently obtained an interest in the property had actual or record notice (as provided for below) of the existence of the permit at the time they acquired their interest.

2.13.14 HEARING

Whenever the Administrator denies a Watershed Protection Permit, on any basis other than a failure of the applicant to submit a completed application, such action may be appealed to the Watershed Review Board by the person aggrieved within thirty days of the notification to deny the permit by following the procedures described in Section 5.8.4.7.

Whenever the Administrator or City Council denies a Watershed Protection Permit on any basis other than the failure of the applicant to submit a completed application, such action shall not be reconsidered by the respective issuing authority unless the applicant clearly demonstrates that:

- 1) Circumstances affecting the property have substantially changed; or
- 2) New information is available that could not, with reasonable diligence, have been presented at the previous meeting. A request to be heard on this basis must be filed within thirty days of the notification of the decision to deny the first application. However, such a request does not extend the period within which an official legal appeal must be filed with the superior court. (See Section 3.2.7 - Judicial review).

Notwithstanding the subsection above, the City Council, Watershed Review Board or Planning and Community Development Director may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered. For the purposes of determining fees, resubmission of an application shall be treated as a new application subject to new fees.

2.13.15 SECTION RESERVED