

OFFICIAL ZONING ORDINANCE

TOWN OF BATH
NORTH CAROLINA

ADOPTED FEBRUARY 11, 1991

AMENDED JUNE 13, 2016

Jimmy Latham, MAYOR
Bubs Carson, TOWN CLERK and ZONING ADMINISTRATOR
Elna Lewis, ADMINISTRATIVE ASSISTANT
Chip Edwards, TOWN ATTORNEY

BOARD OF COMMISSIONERS

John Taylor
Keith Tankard

Jay Hardin
Patricia Duffer

PLANNING BOARD

George Chrismon
Harrison Metcalf

Heidi Smith
Jason Pair

Technical Assistance by:

Mid-East Commission
1385 John Small Ave
Washington, NC 27889
(252) 946-8043

TABLE OF CONTENTS

Article I – Title, Enactment and Purpose

1.01 – Title and Enactment 1
1.02 – Short Title 1
1.03 – Purpose 1

Article II – Establishment of Zoning Districts and Provision for Zoning Map

2.01 – Official Zoning Map 2
2.02 – Rules Governing the Interpretation of District Boundaries 2

Article III – Interpretation and Definition of Terms

3.01 Interpretation of Common Words and Terms 4
3.02 Definition of Specific Words and Terms 4

Article IV – Application of Regulations

4.01 – Territorial Application 12
4.02 – Use, Occupancy, and Construction 12
4.03 – Height, Bulk, Density, Lot Coverage, Yards and Open Space 12
4.04 – Computation of Required Space 12
4.05 – Reduction of Lots or Areas Below Minimum 12
4.06 – Classification of Added Territory 12
4.07 – One Principal Building on Any Lot 12
4.08 – Lot Access Requirements 13
4.09 – Vision Clearance at Intersections 13
4.10 – Walls and Fences 13
4.11 – Structure Excluded from Height Limitations 13
4.12 – Reduction of Front Yard Setback Requirements 13
4.13 – Property Lines Projected 13
4.14 – Compliance with State Guidelines for AEC’s 14
4.15 – Certificate of Zoning 15

Article V – Non-Conformities

5.01 – Intent 16
5.02 – Regulation of Non-Conformities 16

Article VI – Schedule of District Regulations

6.01 – R-1 Low Density Residential District 20
6.02 – R-2 Medium Density Residential District 21

6.03 – B-1 Central Business District	22
6.04 – B-2 General Business District	24
6.05 – W-1 Water Use District	26
6.06 – Office and Institution District	27
Article VII – General Provisions and Supplementary Requirements	
7.01 – Off-Street Parking Requirements	29
7.02 – Regulations Governing Signs	37
7.03 – Outdoor Lighting	44
7.04 – Conversion of Existing Structures to Condominium Ownership	44
7.05 – Home Occupations	44
7.06 – Mooring of Boats	46
7.07 – Marina Standards	47
7.08 – Prohibition of Hazardous Waste	50
Article VIII – Historic Zoning District	
8.01 – Purpose	51
8.02 – District Boundaries	51
8.03 – Permitted Uses in Historic District	51
8.04 – Historic District Commission	51
8.05 – Certificate of Appropriateness Required	53
8.06 – Interior Arrangement Not Considered	54
8.07 – Certain Changes Not Prohibited	55
8.08 – Delay in Demolition of Historic Buildings	55
Article IX – Administration and Enforcement	
9.01 – Zoning Administrator	56
9.02 – Certificate of Zoning Compliance Required	56
9.03 – Water Supply and Sewage Disposal Requirements	56
9.04 – Application for Certificate of Zoning Compliance for Permitted Uses	56
9.05 – Application for Certificate of Zoning Compliance for Conditional Uses	57
9.06 – Site Plan Review	58
9.07 – Project Impact Statement	61
9.08 – Certificate of Occupancy Required	61
9.09 – Violation	61
Article X – Penalty	62

Article XI – Board of Adjustment

11.01 – Board of Adjustment Established	63
11.02 – Chairman of the Board	63
11.03 – Meetings of the Board	63
11.04 – Powers and Duties of the Board	63
11.05 – Appeals from Decision of the Board	67
11.06 – Duties of Zoning Administrator, Board of Adjustments, Courts and Board of Commissioners as to Matters of Appeal	68

Article XII – Changes and Amendments

12.01 – Motion to Amend	69
12.02 – Application	69
12.03 – Protest Against Amendment	69
12.04 – Protest Petition	69
12.05 – Planning Board Action	70
12.06 – Fee	70

Article XIII – Legal Status Provisions

13.01 – Interpretation, Purpose and Conflict	71
13.02 – Validity	71
13.03 – Effective Date	71
13.04 – Prior Inconsistent Ordinances	71

ZONING ORDINANCE
OF THE
TOWN OF BATH, NORTH CAROLINA

ARTICLE I. TITLE, ENACTMENT AND PURPOSE

SECTION 1.01 – TITLE AND ENACTMENT

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY CREATED BY THE NORTH CAROLINA GENERAL ASSEMBLY STATUTES CHAPTER 160A, ARTICLE 19, FOR THE PURPOSES OF PROMOTING THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE; TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS WITHIN THE TOWN; TO REGULATE WITHIN THOSE DISTRICTS THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE REQUIRED OPEN SPACE, THE DENSITY OF POPULATION, AND THE USES OF LAND, WATER, BUILDINGS AND OTHER STRUCTURES; TO PRVIDE METHODS OF ADMISTRATION OF THIS ORDINANCE; TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF; AND TO SUPERSED ANY ORDINANCES IN CONFLICT HEREWITH.

NOW THEREFORE, the Board of Commissioners of the Town of Bath, North Carolina, does hereby ordain and enact into law the following Articles and Sections, this the 11th day of February, 1991.

SECTION 1.02 – SHORT TITLE

This ordinance shall be known as the “Zoning Ordinance”. The map herein referred to which is identified by the title “Official Zoning Map of Bath, North Carolina,” shall be known as the “Zoning Map”.

SECTION 1.03 – PURPOSE

In accordance with the provisions of Chapter 160A, Article 19 of the General Statutes of North Carolina and for the purposes more fully set out in that Chapter, the Board of Commissioners of the Town of Bath, North Carolina adopt this ordinance to provide for the orderly growth and development of the town.

ARTICLE II. ESTABLISHMENT OF ZONING DISTRICTS AND
PROVISION FOR ZONING MAP

SECTION 2.01 – OFFICIAL ZONING MAP

For the purpose of this ordinance, the town is hereby divided into zones or districts as shown on the “Official Zoning Map of Bath, N.C.,” which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor and attested by the Town Clerk and bearing the Seal of the town under the following words:

“This is to certify that this is the Official Zoning Map referred
to in Article II of the Zoning Ordinance of the Bath, N.C.,”
together with the date of adoption of this ordinance.

If, in accordance with Article XII of this ordinance changes are made in district boundaries or other matter portrayed on the Official Zoning Map, those changes shall be promptly entered on the Official Zoning Map after the amendment has been approved by the Board of Commissioners.

Regardless of the existence of purported copies of this Official Zoning Map which may be made or published, the Official Zoning Map which shall be located with the Town Administrator shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the town.

SECTION 2.02 – RULES COVERING THE INTERPRETATION OF DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following plated lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits;
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines and in the event of changed in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

5. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries;
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Commissioners may permit, as conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

ARTICLE III. INTERPRETATION AND DEFINITION OF TERMS

For the purpose of this ordinance certain words or terms used herein shall be interpreted as follows:

SECTION 3.01 – INTERPRETATION OF COMMON WORDS AND TERMS

Words used in the present tense include the future tense.

Words used in the singular number shall include the plural and words used in the plural shall include the singular.

The word “person” includes a firm, co-partnership, company, organization, trust, association, or corporation as well as an individual.

The word “lot” includes the words “plot”, “parcel”, or “tract.”

The word “building” includes the word “structure.”

The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”

The word “shall” is always mandatory.

The word “may” is permissive.

SECTION 3.02 – DEFINITION OF SPECIFIC TERMS AND WORDS

Accessory Use: A use which is clearly incidental to and customarily found in connection with the principal use and located on the same lot with such principle use.

Adult Day Care Facility: A use of land and buildings that provides care on a regular basis to aging, disabled or handicapped adults away from their homes, and by persons other than family members, guardians, or custodian, and where a payment or fee is made for such care.

Alley: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Apartment: A room or unit of one or more rooms, with kitchen/living/bath facilities, and designated or intended to be used as an independent unit.

Applicant: Any person who submits to the Town of Historic Bath a request, or plans for the purpose of obtaining approval thereof under this chapter. This may include an agent representing a person or property owner.

Areas of Environmental Concern (AEC’s): Areas designated and regulated under the Coastal Area Management Act (CAMA). AEC’s in Bath’s planning district are the Public Trust Waters

and Coastal Wetlands (marshes) of Bath and Back Creeks (see the 1981 CAMA Land Use Plan for complete description).

Automotive, motor home, farm implement sales: The sale or rental of new and/or used motor vehicles, motor homes, trailers, or farm implements to be displayed and sold on premises.

Automotive repair/cleaning business: The repair, rebuilding, or reconditioning of motor vehicles or parts of motor vehicles, including collision service, painting and steam cleaning of vehicles.

Bed and Breakfast: Any building occupied by the owner or operator in which rooms are rented for lodging of transients and travelers for compensation. A morning meal or breakfast is served to the guest(s) as part of the accommodation package.

Buffer Strip: A device of material, evergreen plantings and space used to provide sight and sound screening from adjoining properties. The required height and width of the buffer strip and the materials used in its construction vary according to use. Where a buffer strip is required under the provisions of this ordinance, it shall meet the requirements of the Zoning Administrator.

Building: Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or public purposes.

Building, Accessory: A subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of a principal building on the same lot. Accessory buildings may be placed in any rear or side yard but may be no closer than (5) feet from any property line.

Building, detached: A building having no connection or common wall with another building except an accessory building.

Building, Principal: A building in which is conducted the principal use of the parcel on which it is located.

Building Setback Line: A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three feet of any uncovered porches, steps, eaves, gutters and similar fixtures.

Cemetery: Land or structures used or intended to be used for burial of human remains and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of such cemetery.

Church or Place of Worship: A permanent building in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Drive-In Restaurant or Refreshment Stand: Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where

customers may serve themselves and may eat or drink the food, refreshments, or beverages on premises.

Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single family.

Dwelling, Single-Family: A detached building designed for or occupied exclusively by one family.

Family: One or more persons occupying a single family dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain more than five (5) persons.

Family Care Home: A facility designed to care for a maximum of six handicapped persons, plus support and supervisory personnel, as defined in G.S. 168-21.

Financial Institutions (including bank and credit union): Institutions engaged in deposit banking and closely related functions such as extensions of credit by means of loans and investments, and fiduciary services.

Home Occupation: An occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residences to enjoy the peaceful occupancy of their homes.

Lot or Parcel: A parcel or tract of land which fronts on and has ingress and egress means of a public right-of-way or an approved private street and which is occupied or intended to be occupied by a building or groups of buildings as provided herein with the customary accessories and open spaces.

Lot Area: The total horizontal area included within lot lines exclusive of any right-of-way easements.

Lot Corner: A lot of which at least two adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than 135 degrees.

Lot Coverage: the percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, drive way, walkway or roadway.

Lot Depth: The average distance from the street line of the lot to this rear line measure in a general direction of the side lines of the lot.

Lot Lines: The lines bounding a lot as defined here:

- A. Lot Line, Front: The line separating the lot from that street which is designated as the front street on the building permit, certificate of occupancy or subdivision plat.

- B. Lot Line, Rear: The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front line, not less than 30 feet long and wholly within the lot.
- C. Lot Line, Side: A side lot line is any lot boundary line not a front lot line or rear lot line.

Lot Width: The width of a lot at the required building setback line measured at right angles to its depth.

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

Marinas: Private, commercial, or public places which provide facilities for the launching and recovery of boats or any of the uses included in Section 7.09B below. Excluded from this definition are residential boat ramp facilities allowing access only and none of the permitted uses listed in 7.09B.

Medical Clinic: A building or structure or portion thereof where medical services are provided for out-patients only.

Mini-Mall: A shopping center which is less than one (1) acre in total net area.

Mobile Home: A dwelling unit that:

- a. Is not constructed in accordance with the standards set forth in the North Carolina State Building Code for site-built homes, and
- b. Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis,
- c. Does not exceed the North Carolina Department of Transportation standard in feet or width,
- d. Was constructed after July 1, 1976, and meets or exceeds HUD Construction Standards as they existed at time of manufacture.

Mobile Home, Class A: A mobile home constructed after July 1, 1976 that meets or exceeds construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following criteria.

- a. Does not exceed the North Carolina Department of Transportation standard in feet or width;
- b. The pitch of the mobile home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- c. The exterior siding consists of wood, hardboard, aluminum or vinyl (that does not exceed the reflectivity of gloss white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

- d. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home;
- e. Stairs, porches, entrance platforms and other means of entrance and exit to the home shall be installed or constructed in accordance with the standard set by the North Carolina Department of Insurance; and
- f. The moving hitch, wheels, and axles, and transportation lights have been removed.

Mobile Home Class B: A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy all of the criteria necessary to qualify the house as a Class A mobile home.

Modular Home: A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a mobile home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on site.

Non-Conforming Use: A use of building or land which does not conform with the regulations of the district in which such building or land is situated but was lawful before adoption of this ordinance.

Nonconforming feature: A physical feature, characteristic or a use, building structure or other development of land that was lawfully established prior to the effective date of the ordinance from which this chapter derives or a subsequent chapter thereto, but does not conform to the intensity regulations of this chapter, or the design standards of article VI of the chapter, applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, or other nonconformities.

Nonconforming Lot: A lot that was lawfully created prior to the effective date of the ordinance from which this chapter derives or a subsequent amendment thereto, but does not conform to the minimum land area or lot width requirements established in article IV of this chapter, for the zoning district in which it is located.

Open Space: An unoccupied space open to the sky.

Open Storage: Unroofed storage area, whether fenced or not.

Parking Space: A vehicular storage space of not less than then (10) feet by twenty feet (20), plus the necessary access space. It shall always be located outside any dedicated right-of-way.

Private Club: An association established for a common purpose or purposes that allows entry and usage to only members and their guest. The facility may be member or non-member owned and it's restricted to recreational, social, literary, arts/craft or similar usage. Commercial activity in

support of the purposes of the club is permitted on condition they are not open to the general public and display no signage outside the facility.

Public Utility – a business that furnishes an everyday necessity to the public at large. Public utilities provide water, electricity, natural gas, telephone service, and other essentials. Utilities may be publicly or privately owned.

Public Utility Facility – any building, structure, or fixture or part thereof which is owned by a public utility (Not to include Solar or Wind Farms).

Shopping Center : A unified complex with two (2) or more retail, sales, services, and/or restaurant tenants sharing common on-site pedestrian and parking facilities, whether located on one (1) or multiple lots or parcels and whether or not held under single ownership. A shopping center that is less than one (1) acre in total net area is a “mini-mall”. For the purposes of this definition, coffee stands, snack bars, or other businesses that are part of and incidental to larger retail businesses shall not be counted as separate tenants.

Street: A Street is any permanent dedicated public or private right-of-way which has been accepted for maintenance by the N.C. Department of Transportation or the Town, or a homeowners association or similar entity.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Tourist Home: Any building occupied by the owner or operator in which rooms are rented for lodging or transients and travels for compensation.

Travel Trailer: Any structure which:

- a. Consist of a single unit completely assembled at the factory
- b. Is designed so that the total structure can be transported on its own chassis.
- c. Does not exceed the North Carolina Department of Transportation standard in feet or width, and
- d. Designed to be used as a temporary dwelling unit for travel, recreation, and vacation (term is inclusive of pick-up coach, motor-home, camping trailer and the like)

Travel Trailer Park: A parcel or tract of land under single ownership which has been planned and improved for the temporary placement of campers or trailers as a service to the traveling public. All travel trailer parks existing at the time of passage of this ordinance which do not meet the minimum requirements established for travel trailer parks by this ordinance shall be considered a non-conforming use.

Use: A “use” is:

- a. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or;

- b. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, Conditional: A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would preserve the intent of this ordinance to promote the health, safety, morals, and general welfare. Specific provision are made for conditional uses which may be permitted in certain zones and the procedures for application are set out in Article IX, Section 9.05 of this ordinance.

Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. In this ordinance a variance is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of the use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 50 inches above the general ground level of the grade lot upward, provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this ordinance, and further provided that customary accessory buildings may be located in any side or rear yard no closer than five (5) feet to any property line and subject to other limitations of this ordinance.

- a. Yard, Front: A yard extending between side lot lines across the front of a lot adjoining the public street. Depth of required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be essentially parallel.
- b. Yard, Rear: A yard extending across the rear of the lot between side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is as trip of the minimum width required by district regulations with its inner edge parallel with the rear lot lines.
- c. Yard, Side: A yard extending from the rear line of the required front yard to the rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

ARTICLE IV. APPLICATION OF REGULATIONS

SECTION 4.01 – TERRITORIAL APPLICATION

The provisions of this ordinance shall apply to all lands and structures and uses within the town limits and its extraterritorial jurisdiction.

SECTION 4.02 – USE, OCCUPANCY AND CONSTRUCTION

After the effective date of this ordinance, no building, structure, or land shall be used or occupied, and no structure or part of a structure shall be constructed except in conformity with all of the regulations specified for the district in which it is located.

SECTION 4.03 – HEIGHT, BULK, DENSITY, LOT COVERAGE, YARDS AND OPEN SPACES

After the effective date of this ordinance, no building or other structure shall be erected or altered to exceed the height or bulk requirements of this ordinance; nor to accommodate a greater number of families than allowed by this ordinance; nor to occupy a greater percentage of lot area than allowed by this ordinance; nor to have narrower or smaller front yards, side yards, rear yards, or other open spaces than required by this ordinance; nor shall any building, structure of land be used in any other manner contrary to the provisions of this ordinance.

SECTION 4.04 – COMPUTATION OF REQUIRED SPACES

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

SECTION 4.05 – REDUCTION OF LOTS OR AREAS BELOW MINIMUM

No yard of lot existing at the effective date of this ordinance shall be reduced in dimension or area below the minimum requirements set forth in this ordinance. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

SECTION 4.06 – CLASSIFICATION OF ADDED TERRITORY

All territory not included under the provisions of this ordinance which are later added to the zoning jurisdiction of the town shall be considered to be in the R-1 Low Density Residential classification until otherwise notified.

SECTION 4.07 – ONE PRINCIPAL BUILDING ON ANY LOT

Only one (1) principal building and its customary accessory buildings may be erected on any lot.

SECTION 4.08 – LOT ACCESS REQUIREMENTS

All lots created after the passage of this ordinance must front on a publicly dedicated right-of-way. No structure requiring a building permit shall be erected on any lot which does not abut either a public right-of-way or a private street or easement at least 20 feet in width which was recorded by the County Register of Deeds prior to the effective date of this ordinance.

SECTION 4.09 – VISION CLEARANCE AT INTERSECTIONS

On a corner lot which abuts a state or town maintained right-of-way in any district no planting, structure, fence, wall or other obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersection street right-of-way lines and a straight line connecting points on those street lines each of which twenty-five (25) feet distance from the point of intersection.

SECTION 4.10 – WALLS AND FENCES

The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any wall or fence. However, within or abutting any residential district, no wall or fence shall exceed six (6) feet in height within a front or side yard and in any business or industrial district no fence shall exceed eight (8) feet in height.

SECTION 4.11 – STRUCTURES EXCLUDED FROM HEIGHT LIMITATIONS

The height limits of these regulations shall not apply to a church spire, belfry, cupola and dome or ornamental tower not intended for human occupancy, monument, water tower, observation tower, transmission tower, chimney, smoke stack, conveyor, flat pole, radio or television tower, mast or aerial, parapet wall not extended more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances.

SECTION 4.12 – REDUCTION OF FRONT YARD SETBACK REQUIREMENTS

In any residential district, where the average setback distance for existing buildings on all lots located wholly or partly within two hundred (200) feet of any lot, and within the same zoning district and front on the same side of the same street as the lot, is less than the minimum setback required in the zoning district, the setback on that lot may be less than the required setback, but not less than the existing average setback distance for all lots within the two hundred (200) feet in no case shall the setback be less than fifteen (15) feet. When lots within two hundred (200) feet are vacant, those vacant lots shall be considered as having the minimum required setback for the purpose of computing an average setback distance.

SECTION 4.13 – PROPERTY LINES PROJECTED

In any district abutting Back Creek or Bath Creek, the property line or lot line shall be considered the recorded line on the plat plus the imaginary extension of that property line from the point at which the property line touches the creek's high water mark, to the middle of the main channel. Under this provision all future location of public, or private piers, walkways, boat slips or other structures, shall not be less than fifteen (15) feet from such imaginary property lines as extended into the creek.

SECTION 4.14 – COMPLIANCE WITH STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

Prior to the issuance of any initial zoning permit, zoning change permit, or conditional use permit, the zoning administrator and local AEC Permit Officer in consultation with the State AEC Field Consultant, shall determine whether the proposed use or structure is located in an Area of Environmental Concern. This determination shall result from an on-site investigation. If the proposed use or structure is located in an Area of Environmental Concern, the zoning administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the State Guidelines for Areas of Environmental Concern prior to issuing any zoning permit.

SECTION 4.15 – CERTIFICATION OF ZONING AND CAMA AREAS OF ENVIRONMENTAL CONCERN CONSISTENCY

On _____ (date) _____ the _____ (town/county) _____ of _____ considered _____ initial zoning/rezoning/or conditional use _____ of a tract/parcel of land located at _____

and owned by _____.

This certifies that the tract/parcel in question ___is/is not___ located in an Area of Environmental Concern, based on an on-site investigation by the local AEC Permit Officer, the local zoning enforcement officer, and in consultation with the state AEC Field Consultant.

This further certifies that if the tract is, in part or totally, in an Area of Environmental Concern, all proposed uses or structures in the AEC will comply with development standards of the State Guidelines for Areas of Environmental Concern.

AEC Permit Officer

Zoning Enforcement Officer

Date

ARTICLE V. NON-CONFORMITIES

SECTION 5.01 – INTENT

Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were unlawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conformities to continue until they are removed. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

SECTION 5.02 – REGULATION OF NON-CONFORMITIES

A. Non-Conforming Lots of Record

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment as established in Article XI of this ordinance.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of that parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements state in this ordinance.

B. Non-Conforming Uses of Land or Water

Where, at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where the uses involves no individual structure with a replacement cost exceeding \$1,000, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or water surface area than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot; parcel or water other than that occupied at the effective date of adoption or amendment of this ordinance.
3. If any such non-conforming use shall be moved in a whole or in part to any portion of the lot; parcel or water other than that occupied at the effective date of adoption or amendment of this ordinance.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with any non-conforming use of land or water.
5. Normal maintenance and repair of a structure occupied by a non-conforming use is permitted provided it does not increase the non-conforming use.

C. Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on the lot, or other requirements concerning the structure, the structure may remain so long as it remains lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 75 percent of its replacement cost at time of destruction, it may be reconstructed at no greater non-conformity than at the time of such destruction, and otherwise shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4. A non-conforming mobile home on an individual lot outside of a mobile home park may not be replaced except by a conforming dwelling. A non-conforming mobile home may not be enlarged or altered externally in any way.

D. Non-Conforming Uses of Buildings or of Buildings and Premises in Combination

If lawful use involving individual buildings with a replacement cost of \$1,000 or more, or of building and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changed the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for that use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming structure or use of structures may be changed to any conforming use, or, with the approval of the Town board of Commissioners, to any use more in character with uses permitted in the district. In permitting such a change, the Board of Commissioners must find that the proposed use is more appropriate or equally appropriate to the district as the existing non-conforming use and shall require appropriate conditions and safeguards necessary to ensure that the chance is in keeping with provisions and spirit of this ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for 18 months during any three-year period (except when government action impeded access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 75 percent of the replacement cost at time of destruction.

E. Repairs and Maintenance

1. Normal maintenance and repair of a structure occupied by a non-conforming use is permitted provided it does not expand the non-conforming use.
2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
3. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.

F. Uses Under Conditional Use Provisions Not Non-Conforming

Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

ARTICLE VI. SCHEDULE OF DISTRICT REGULATIONS

SECTION 6.01 – R-1 LOW DENSITY RESIDENTIAL DISTRICT

A. Intent

The R-1 District is intended to encourage the development of permanent low-density residential neighborhoods. These districts are located primarily in areas which are protected from more intensive uses of the land.

B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings
2. Customary accessory buildings including private swimming pools, pool house and tennis courts.
3. Mobile Homes, Class A and Class B Provided it is placed on a permanent brick, concrete block or other type of permanent material foundation, as approved by the Zoning Administrator. In addition, no mobile home manufactured prior to 1976 can be set up as a resident unless it is already legally set up as a resident within the Planning Jurisdiction of the Town of Historic Bath.
4. Modular Homes
5. Family Care Homes provide they are located at least one-half mile from any existing and permitted Family Care Home.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Churches and cemeteries
2. Fire Stations, schools and other public buildings
3. Home occupations under the provisions of Section 7.05
4. Private clubs on sites of not less than two (2) acres including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto provided that there is no open commercial activity and no sign other than a direction sign is allowed.
5. Public utility facility. These facilities must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use. The Town Board of Commissioners will approve landscaping plan.

D. Dimensional Requirements for R-1 Low Density Residential District

1. Density: Development may occur at a maximum density of two parcels per acre, provided all setbacks and all Beaufort County Health Department rules and regulations concerning placement and maintenance of septic tanks are observed. Mobile homes shall have a lot size of at least on acre.
2. Minimum lot width: 90 feet, measured at the building setback line, however water front lots shall be measured at the mean high water mark.

3. Minimum front yard: 25 feet
4. Minimum side yard: 10 feet. Except that the side yard adjacent to the street on a corner lot must be at least 20 feet.
5. Minimum rear yard: 25 feet
6. Maximum allowable lot coverage by principal use and all accessory structures: 30%
7. Height limitation: 35 feet to be measured from the established grade at the corner of a front of a building to the highest point of the building.
8. No pier or other structures may extend more than one hundred fifty (150) feet into Bath Creek and not more than one hundred (100) feet into Back Creek.

SECTION 6.02 – R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

A. Intent

The R-2 District is intended to encourage the development of permanent moderate density residential neighborhoods. These districts are generally served by a higher level of public facilities including, at a minimum, public water, paved streets, and storm drainage.

B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwellings
2. Customary accessory buildings including private swimming pools, pool house and tennis courts.
3. Modular Homes
4. Family Care Homes provide they are located at least one-half mile from any existing and permitted Family Care Home.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Churches and cemeteries
2. Fire Stations, schools and other public buildings
3. Home occupations under the provisions of Section 7.05
4. Private clubs on sites of not less than two (2) acres including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto provided that there is no open commercial activity and no sign other than a direction sign is allowed.
5. Public utility facility. These facilities must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use. The Town Board of Commissioners will approve landscaping plan.

D. Dimensional Requirements for R-2 Low Density Residential District

1. Density: Development may occur at a maximum density of two parcels per acre, provided all setbacks and all Beaufort County Health Department rules and regulations concerning placement and maintenance of septic tanks are observed. Mobile homes shall have a lot size of at least one acre. Development that occurs with utilization of a community sewer and water system may develop at a density of four parcels per acre.
2. Minimum lot width: 90 feet, measured at the building setback line, however water front lots shall be measured at the mean high water mark.
3. Minimum front yard: 15 feet
4. Minimum side yard: 10 feet. Except that the side yard adjacent to the street on a corner lot must be at least 15 feet.
5. Minimum rear yard: 20% of lot depth. Except that no rear yard shall be required to exceed 20 feet in depth.
6. Maximum allowable lot coverage by principal use and all accessory structures: 30%
7. Height limitation: 35 feet to be measured from the established grade at the corner of a front of a building to the highest point of the building.

SECTION 6.03 – B-1 CENTRAL BUSINESS DISTRICT

A. Intent

The B-1 District is established to provide for a centrally located commercial trade and services area for the town. These regulations are designed to encourage the continued use of land for commercial purposes and to permit a concentrated development of the district while maintaining a substantial relationship between the intensity of land use and the capacity of utilities and streets.

B. Permitted Uses

The following uses shall be permitted by right:

1. Offices including:
 - a. Business
 - b. Financial
 - c. Governmental
 - d. Medical and professional
2. Primary retail stores, including:
 - a. Books
 - b. Cameras
 - c. Candy
 - d. Clothing
 - e. Craft Goods
 - f. Dry Goods
 - g. Drug Store/Pharmacy
 - h. Flowers
 - i. Gifts

- j. Hardware
 - k. Hobby Goods
 - l. Jewelry
 - m. Leather Goods
 - n. Magazines
 - o. Musical Instruments
 - p. Notions
 - q. Sporting Goods
 - r. Toys
 - s. Food Stores
3. Secondary retail stores, including:
 - a. Antiques
 - b. Household Appliance
 - c. Furniture Stores
 4. Service establishments, including:
 - a. Barber and Beauty Shops
 - b. Cafeterias
 - c. Dry Cleaning and Laundry Pick-Up Stations
 - d. Parking Lots
 - e. Restaurants
 - f. Shoe Repair
 - g. Day Care Nursery
 - h. Motels with less than 6 units
 5. Detached Single-Family Dwellings that may be developed at the same density as the R-2 District.
 6. Customary accessory uses and structures.
 7. Building contractor's office and storage areas.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Public Utility Facilities. These facilities must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use.
2. Churches
3. Fire stations, schools, and other public buildings
4. The rehabilitation of an existing structure into individual living units, provided such buildings are historic in nature and such rehabilitation is performed under the Department of Interior, National Historic Preservation Guidelines. (Amended August 24, 2004)
5. Mini- Mall

6. Single Family residential dwelling unit within existing structures only. (Amended October 9, 2017)

D. Dimensional Requirements for Business Lots in the Central Business District

1. Minimum lot size: Commercial lots shall be of sufficient size to meet the requirements of the County Health Department unless served by public water and sewer and to provide adequate siting for structures. Sites served by community water and sewer may develop at a density of four units per acre. In addition, a visual buffer is required where a commercial use or zone abuts a residential zone.
2. Minimum front yard: 10 Feet
Except that if a paved sidewalk is provided, none is required.
3. Minimum Side Yard: 10 Feet
No side yard required if commercial building constructed with a common wall. A side yard of 10 feet is required adjacent to the street on a corner lot.
4. Height Limitation: 35 feet to be measured from the established grade at the corner of a front of a building to the highest point of the building.
5. Minimum Rear Yard: 20 feet (Amended February 11, 2013)
6. Maximum allowable lot coverage by principal use and all accessory structures: 60% (Amended February 11, 2013)

SECTION 6.04 – B-2 GENERAL BUSINESS DISTRICT

A. Intent

The B-2 District is established to provide for the development of business facilities to furnish a broad range of services and commodities for the permanent community and visitors. Must front state numbered road.

B. Permitted Uses

The following uses shall be permitted by right:

1. All permitted uses listed in Section 6.03 B of the B-1 Central Business District
2. Building supply and equipment sales
3. Plumbing supply and equipment sales
4. Cabinet and woodworking shops
5. Motels and hotels
6. Building contractors' offices and storage areas
7. Funeral Homes
8. Farm machinery supplies, sales, and repairs
9. Ice manufacture and sales

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Automobile service station, provided that no building or storage tank shall be located within fifty (50) feet of a residential use or district, that there will be no storage of

- wrecked or abandoned cars, and that no portion of a service station building, equipment or gas pumps shall be nearer than twenty-five (25 feet to any right-of-way.
2. Public Utility Facilities. These facilities must provide a vegetated buffer strip at least ten (10) feet in height where the facility abuts a residential lot or use.
 3. Outdoor entertainment activities including amusement park rides, miniature golf courses, and other similar activities may be permitted subject to other requirements of this ordinance and provided the following conditions are met:
 - a. The site shall not be located closer than 500 feet to any residential zoning district.
 - b. Paved parking shall be provided as required in Section 7.01
 - c. Holding lanes shall be provided for automobiles entering and leaving the site to minimize traffic congestion on public roads.
 - d. Lighting shall be arranged and shielded so that light and glare is directed away from the surrounding properties.
 - e. The boundaries of the entire site shall be buffered by dense vegetative planting or natural vegetation not less than eight feet in height and ten feet in width. Suitable plant types for a site not containing natural vegetation shall be those recommended for the area by the U.S. Department of Agriculture which will reach matured growth of eight to ten feet within three years.
 4. Animal boarding kennel or veterinary clinic provided that all pens and kennels are in an enclosed, air-conditioned building and further provided that all unenclosed runs be set back not less than fifty (50) feet from any existing residential use or district.
 5. Indoor recreation including dance halls, pool rooms, bowling alleys, entertainment arcades and the like provided the site shall be no closer than 250 feet to any residential development.
 6. Automobile sales and service
 7. Marinas (subject to the requirements of 7.07)
 8. Mobile home or recreational vehicle display or sale.
 9. Boat display and sales
 10. Mini-storage units provided no such unit shall be located closer than 50 feet from any road right-of-way, such unit shall be limited to one story not to exceed fifteen (15) feet in height, and such unit shall provide adequate access areas and load and unloading areas.
 11. Churches (Amended December 2010)
 12. Shopping Centers that contain more than one allowed principle use
 13. Laundromat

D. Dimensional Requirements for Business B-2 General Business District

1. Minimum lot size: Commercial lots shall be of sufficient size to meet the requirements of the County Health Department unless served by public water and sewer and to provide adequate siting for structures; and to provide off-street parking, loading and maneuvering space for vehicles as required by section 7.01 of this ordinance. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone.
2. Minimum front yard: 15 Feet
3. Minimum Side Yard: 10 Feet. An additional 15 foot yard adjacent to the street is required for a corner lot.
4. Minimum rear yard: 20 feet
5. Maximum allowable lot coverage by principal use and all accessory structures: 60%

6. Height limitation: 35 to be measured from the established grade at the corner of a front of a building to the highest point of the building.

SECTION 6.05 – WATER USE DISTRICT

A. Intent

The W-1 District is established pursuant to a grant authority to the Town of Bath by the General Assembly of North Carolina to provide for the safe and orderly use of public trust waters within the zoning jurisdiction of the Town. The W-1 District is intended to provide for a wide range of activities and uses while protecting the public rights of access and the public health and safety.

B. Permitted Uses

The following uses shall be permitted by right:

1. Private bulkheads and piers which have received approval under the N.C. Coastal Area Management Act with the following restrictions
 - a. No more than two (2) boat slips (a boat is defined in 15A NCAC 07M .0602(a)) of any size or type will be permitted at or on a private pier except when stored on a platform that has already been accounted for within the shading impacts condition of a general permit from CAMA or the appropriate State agency. Personal watercraft stored on floating or fixed platforms shall not count as docking space.
 - b. No Pier shall be located closer than fifteen (15) feet to a side property line, except for those shared piers (1) constructed on the shared property line, (2) in compliance with 15 A NCAC 07H .1204 & .1205 of the N.C. Administrative Code, specifically section (u) of the same, (3) and approved by the proper State official or office pursuant to the N.C. Coastal Area Management Act. In the event that a shared pier is constructed pursuant to this section, no other pier shall be allowed on either of the properties joined by the shared property line except and unless the shared pier and all of its components, as constructed, are demolished and removed from land and water as allowed by law. Specific requirements for any shared pier constructed pursuant to this Section include, but are not limited to, a design sufficient to provide docking space for no more than four boats.
2. Traditional non-commercial water activities such as bathing, fishing, crabbing for personal use and boating.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Special events such as boat races, regattas, water-ski shows, boat parades and historic re-enactments.
2. Commercial marinas only in the B-2 Districts as regulated by Section 7.07.
3. Commercial fishing and crabbing operations

D. Dimensional Requirements for W-1 Water Use District

1. No pier may be placed within fifteen (15) feet of a side property line or its extension into water as detailed in Section 4.13 of these Ordinances, except for those shared piers (1) constructed on the shared property line, (2) in compliance with 15A NCAC 07H .1204 & .1205 of the N.C. Administrative Code, specifically section (u) of the same, (3) and approved by the proper State official or office pursuant to the N.C. Coastal Area Management Act. In the event that a shared pier is constructed pursuant to this section, no other pier shall be allowed on either of the properties joined by the shared property line except and unless the shared pier and all of its components, as constructed, are demolished and removed from the land and water as allowed by law. Specific requirements for any shared pier constructed pursuant to this Section include, but are not limited to, a design sufficient to provide docking space for no more than four boats.
2. No pier or other structures may extend more than one hundred fifty (150) feet into Bath Creek and not more than one hundred (100) feet into Back Creek.

E. Permanent Moorings Prohibited

1. Permanent Moorings are hazardous to navigation, increase congestion of the public trust waters, and create potential for water quality degradation. Therefore, no permanent mooring shall be allowed. The Zoning Administrator shall make a survey of all permanent moorings existing as of the date of adoption of this Ordinance. Any permanent mooring placed in the W-1 district after such date shall be removed at the owner's expense. Any such existing permanent moorings shall be allowed to continue, subject to the following:
 - a. There shall be no transfer of such mooring from the named owner and spouse.
 - b. That said, mooring shall not be alienated, bequeathed, inherited, leased, loaned, or used by anyone or any boat other than the owner's boat.
 - c. Said mooring shall be removed if it is unused for a period of six (6) months.
 - d. Said mooring shall be removed upon the death of the owner or spouse whichever occurs last.
2. All permanently moored boats must be lighted between sunset and sunrise.
3. Permanent Moorings shall mean any structure which is placed in the water and attached to a buoy, float, or other device capable of attaching a boat or vessel or other floating structure. It does not include an anchor, weight, or other object which is used to anchor a boat or vessel and is removed each time the vessel is removed, or to any pier, dock, or other structure which is duly permitted under these ordinances and it does not include moorings within the pier lengths as allowed in D.2 above.

SECTION 6.06 – OFFICE AND INSTITUTIONAL DISTRICT

A. Intent

This District is defined as a certain land areas with structures that provide office space for professional services and for certain institutional functions and residential accommodation, usually medium or high-density in nature. The district is normally small

and may include older homes undergoing conversion. This district is situated between business and residential districts, and the regulations are designed to permit development of the permitted functions and still protect, and be compatible with nearby residential districts.

B. Permitted Uses

The following uses shall be permitted by right:

1. Certified Professional Offices
2. Schools
3. Historic Sites/Visitor Centers
4. Fire/Rescue Stations
5. Radio/TV Stations
6. Governmental Offices
7. Museums/Art Galleries
8. Libraries
9. All those uses allowed in the Section R-2 Residential District.

C. Conditional Uses

The following uses shall be permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as approved in Article IX.

1. Restaurants
2. Home Occupations
3. Bed and Breakfast
4. Clothing Stores
5. Antique/Gift Shops
6. Barber/Beauty Shops

D. Dimensional Requirements for O&I District

1. Minimum lot size: 20,000 square feet. Except that if served by an approved public or community water or sewage disposal system, lot size may be reduced to 10,000 square feet.
2. Minimum front yard: 15 feet
3. Minimum side yard: 10 feet
4. An additional 5 foot yard adjacent to the street is required for a corner lot.
5. Maximum rear yard: 20 feet
6. Maximum allowable lot coverage by principal use and all accessory structures: 60%
7. Height limitation: 35 feet to be measured from the established grade at the corner of a front of a building to the highest point of the building.

ARTICLE VII. GENERAL PROVISIONS AND SUPPLEMENTARY REGULATIONS

SECTION 7.01 – OFF-STREET PARKING REQUIREMENTS

At the time of erection of any structure, or at the time any structure is enlarged or increased in a capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking space shall be provided according to the requirements of this ordinance.

A. General Provisions

1. Each parking space shall have a minimum length of twenty (20) feet and a minimum width of ten (10) feet. There shall be a minimum of twenty-four (24) feet of space between the parking spaces within the parking area for cars to traverse and access said parking spaces. It shall be a vehicular access to a publicly dedicated street. (Amended February 11, 2013)
2. With the exception of required spaces for single-family, sufficient maneuvering space shall be provided so that no vehicle will be required to back into the public right-of-way.
3. Required off-street parking spaces are permanent areas and shall not be used for any other above ground purposes. Removal or elimination of a required parking space shall immediately revoke the occupancy permit of the use for which the parking space is required.
4. For uses not specifically mentioned, off-street parking requirements shall be applied by the Zoning Administrator based upon requirements for similar uses listed in this ordinance.
5. All space requirements which are based upon employment shall be computed on the basis of the greatest number of persons on duty at any one period during the day or night.
6. Each application for a certificate of zoning compliance or certificate of occupancy submitted to the Zoning Administrator shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this section are met.

7. The required parking space for any number of separate uses may be combine in one lot but the required space assigned to one use may not be assigned to another use, except that one-half of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
8. If the off-street parking space required by this ordinance in any district except a Residential District cannot be reasonable provided on the same lot on which the principal use is located, the space may be provided on any land within four hundred (400) feet of the main entrance to the principal use. That land shall be used for no other purpose so long as no other adequate provisions of parking space meeting the requirements of this ordinance have been made for the principal use. In such cases, the applicant for a permit for the principal use shall submit with his application for a building permit an instrument duly executed and acknowledge, which subjects the land to parking use in connection with the principal use for which it is made available for a period of 20 years with an option for renewal for an additional period of 20 years. The applicant shall cause the instrument to be registered in the office of the County Register of deeds.
9. Off-street parking spaced required by a use permitted in any Residential District shall be provided on the same lot with the use by which it is required. Off-street parking space in conjunction with commercial and industrial uses in other districts shall not be permitted in a Residential District.

B. Requirements for Parking Lots

Where parking space for five (5) or more cars is provided or required, the following provisions shall be complied with:

1. Yards – No parking lot shall be located closer than fifteen (15) feet to a public right-of-way. The area between the parking lot and public right-of-way shall be planted and maintained in lawn or other appropriate planting, or shall be improved otherwise as approved in the site plan review pursuant to Section 9.06 of this Ordinance. (Amended February 11, 2013)
2. Curb Bumpers – The required front and side yards shall be set off from the parking area by a fixed curb of masonry or wood, not less than six (6) inches or more than two (2) feet high.
3. Lighting – Any lightning shall be so arranged as to direct the light and glare away from streets and adjacent property.
4. Surfacing – All parking lots shall be provided and maintained with a paved or gravel surface and with drainage facilities adequate to provide safe and convenient access in all weather conditions.

5. Drainage – Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural water course or a drainage easement.
6. Markings – Each parking space shall be marked off and maintained so as to be distinguishable.
7. Entrances – On all corner lots, no vehicular openings shall be located at closer than fifteen (15) feet from the point of intersection of the established street right-of-way lines. No entrance or exit on any lot shall exceed thirty (30) feet in width at the property line, or forty (40) feet at the curb line. There shall be a minimum distance between one-way driveways of twenty-five feet measured
8. Internal Circulation – The internal circulation plan of parking lots shall be approved by the Zoning Administrator.

C. Minimum Parking Requirements

The number of off-street parking spaces required by this section shall be provided on the same lot with the principal use except as provided in Subsection (A) (10) above, and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum. Accessory buildings shall be included with the principal buildings in measurement of gross floor area for determining parking requirements. Gross floor area shall be measured from the outside walls of all structures. Where a fraction of a space is required by this ordinance, the next whole number shall be provided. In addition, a developer shall evaluate his own needs to determine if they are greater than the minimum specified by this ordinance.

1. Residential and Related Uses

Single-Family detached dwelling units:

Hotel, Tourist home, motel, motor court, rooming or boarding house:

Two (2) parking spaces for each dwelling unit.

Home Occupation:

1.25 parking spaces for each room to be rented plus one (1) additional parking space for each three (3) employees

2. Public and Institutional Uses

Hospital:

One (1) parking space of each employee in addition to resident requirements.

Clinic:

One (1) parking space for each two (2) beds intended for patient use, one (1) space for each resident physician and one (1) space for each two (2) employees.

Nursing Home:

Ten (10) parking spaces minimum plus five (5) parking spaces for each doctor assigned plus one parking space for each employee.

Churches:

One (1) parking space for each five (5) beds intended for patient use, and one (1) space for each three (3) employees.

Elementary School and Junior High School:

One (1) parking space for each four (4) seats in the sanctuary.

Senior High School:

One (1) parking space for each classroom and administrative office.

One (1) parking space for each five (5) students for which the building was designed plus one (1) parking space for each classroom and administrative office.

Furniture, Appliance and Grocery
Stores:

Stadium:

One (1) parking space for each three (3) spectator seats.

Auditorium or Amphitheater:

One (1) parking space for each three (3) seats.

Public or Private Clubs:

One (1) parking space for each two hundred (200) square feet of gross floor space.

Public Utility Buildings:

One (1) parking space for each employee. With customer service facilities, a minimum of five (5) additional spaces.

3. Retail and Office Uses

General or Professional Offices and Banks (other than doctors, dentists. See clinic requirements):

One (1) parking space for each two hundred (200) square feet of gross floor space plus one (1) space for each two (2) employees.

Roadside stands, plant nurseries, outdoor concessions, sightseeing rides, automobile sale lots and similar activities involving outdoor display of merchandise or services:

Minimum of five (5) parking spaces and one (1) parking space for each five hundred (500) square feet of gross ground area exclusive of the area required for parking.

Marinas:

Adequate triple length parking spaces (60 feet) should be provided for each boat launched and one space for each employee on the largest shift.

Restaurants, Cafe, or Public Eating Place:

One (1) parking space for every three (3) customer seats, plus one (1) additional parking space for each three (3) employees.

Drive-In Restaurant or Refreshment Stand:

Thirty (30) parking spaces in addition to the requirements for a restaurant, cafe or public eating place.

One (1) parking space for each 500 square feet of gross floor area.

Indoor entertainment facilities including bowling alleys, dance halls, skating rinks, amusement arcades and similar facilities:

One (1) parking space for each 100 square feet of gross floor area and one (1) additional space for each two (2) employees.

Outdoor entertainment facilities including amusement parks, miniature golf course, and similar facilities:

One (1) parking space for each one hundred (100) square feet of gross ground area exclusive of the area required for parking and buffering and one (1) additional space for each two (2) employees.

Theaters:

One (1) parking space for each three (3) seats in the auditorium.

Funeral Homes:

One (1) parking space for each four (4) seats in the chapel or parlor.

Retail uses not otherwise listed:

One (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) for each employee.

4. Wholesale Uses and Warehouses

Wholesale Uses

One (1) parking space for each employee on the largest shift.

Industrial Uses

Two (2) parking spaces for each three (3) employees on the largest shift.

D. Off-Street Loading

Where off-street loading space is required under the dimensional requirements of a particular district, one or more loading berths shall be provided for standing, loading and unloading operations either inside or outside a building and on the same or adjoining premises with every building erected after the enactment of this ordinance in accordance with the requirements of the following table. A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and a 14 foot overhead clearance. A loading space need not be necessarily a full berth, but should be sufficient to allow normal loading and unloading operations appropriate to the property served. The zoning Administrator shall determine the sufficiency of loading space, but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

Use Classification

Retail operation, including restaurant and dining facilities within hotels and office buildings, with a total usable floor area of 20,000 square feet or more and devoted to that purpose.

Space Requirements

One (1) loading berth for every 20,000 square feet of floor area.

Retail operations, and all first floor non-residential uses, with a gross floor area of less than 20,000 square feet and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet.

A loading space (not necessarily a full berth) as defined in this section.

Office buildings and hotels with a total usable area of 100,000 square feet or more devoted to such purposes.

One (1) loading berth for every 10,000 square feet of floor area

Industrial and whole sale operations with a gross floor area of 10,000 square feet or over and as follows:

Minimum number of loading berths required:

10,000 – 40,000 square feet	1
40,000 – 100,000 square feet	2
100,000 – 160,000 square feet	3
160,000 – 240,000 square feet	4
240,000 – 320,000 square feet	5
320,000 – 400,000 square feet	6
Each 90,000 square feet above 400,000 square feet	1

SECTION 7.02 – REGULATIONS GOVERNING SIGNS

A. Purpose/Definitions

The purpose of this section is to create a comprehensive system of signage within the Town of Bath and is further intended to facilitate an effective means of communication. It recognizes the need for an orderly and aesthetically pleasing community as well as the need for adequate business identification. This section regulates the use of signs in order to ensure that they are designed, constructed, installed, and maintained in such a manner that they do not endanger the public safety and welfare and that they are compatible with their surroundings. However, the regulations contained herein are designed to provide flexibility for the individual identification of businesses and services. Signs which do not conform to the requirements of this section are declared to be nonconforming and are allowed to remain in existence until the termination of a three-year amortization period.

1. For the purposes of this ordinance, a sign is any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panels designed to carry visual information. However, the following shall not be included in the application of these regulations:
 - a. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
 - b. Flags and insignia of any government except when displayed in connection with commercial promotion;
 - c. Legal notices, identification, informational, or directional signs erected or required by governmental bodies or public utilities;
 - d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
 - e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - f. Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and sixteen square feet in area and that are not internally illuminated.
 - g. Signs painted on or otherwise permanently attached to currently licensed motor vehicle that are not primarily used as signs.
 - h. Signs determined by the Town Council to be of local historical significance.

2. Signs are defined by either on-site signs or off-site signs.

- a. An on-site sign is one relating in its subject matter to the premises on which it is located, or to products, services, accommodations, or activities on those premises.
- b. An off-site sign is any sign other than an on-site sign including signs erected for the provision of outdoor displays or display space as a business on a lease or rental basis.

B. Number and Area

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than twelve (12) inches between each sign face.

C. Building Permit Required

No sign shall hereafter be erected to or attached to, suspended from, or supported on a building or structure nor shall any existing sign be structurally altered, remodeled or relocated until a certificate of compliance has been issued by the Zoning Administrator. No permit is required for signs enumerated in Subsection H.

D. Material and Design

All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in Section 804 of the North Carolina Building Code, 1958, as amended.

E. Inspection Required

Each sign may be subject to an annual inspection by the Zoning Administrator for the purpose of assuring that the structure is maintained in a safe condition. The fee for the annual inspection shall be in accordance with a regularly adopted fee schedule of the town. When a sign becomes structurally unsafe, the Zoning Administrator shall give written notice to the owner of the sign or the owner of the premises on which the sign is located, that the sign shall be made safe or removed within ten (10) days of receipt of notice.

F. Illuminated Signs

All signs in which electrical wiring and connections are to be used shall require a permit and shall comply with the North Carolina Electrical Code and be approved by the Zoning Administrator.

Unless otherwise prohibited by this chapter, signs may be illuminated if such illumination is in accordance with this section.

1. No sign within 150 feet of a residential zone may be illuminated between the hours of 12 midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.
2. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
3. Internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business or in operation.
4. No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.
5. No internally illuminated sign shall be located in the corporate limits or historic district.

G. Prohibited Signs

1. No sign may be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "STOP" or "DANGER". No sign shall be erected or maintained which involves flashing or intermittent red, green, or amber illumination or resembles a traffic control signal or sign.
2. No sign may obstruct corner visibility or visibility at a driveway between a height of two (2) feet and ten (10) feet.
3. No sign may be posted on any telegraph, telephone, or electric light poles or on any tree along any street except for approved street name signs.
4. No sign may obstruct ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building as required by law.
5. No sign may violate any provision of any law of the State of North Carolina relative to outdoor advertising.

6. No sign may be erected which contains, employs, or utilizes lights or lighting which rotates, flashes, moves or alternates except for otherwise approved time or temperature signs.
7. No sign may be located within a public right-of-way or within 30 feet of the center line of any public thoroughfare.
8. No portable/movable signs.
9. No signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Signs that only move occasionally because of wind are not prohibited if their movement is not a primary design feature of the sign.

H. Signs Permitted in Residential Districts

1. One indirectly lighted name plate or professional sign no larger than two (2) feet in height and two (2) feet in length in the corporate limits and four (4) feet in height and four (4) feet in length in the extraterritorial jurisdiction may be permitted with an approved home occupation.
2. Temporary real estate signs, not exceeding two (2) square feet in area, directing the way to premises which are for sale, rent, or lease; provided such signs shall be neatly painted or printed and shall be removed promptly when the property has been sold, rented, or leased. Limited to one per agency at each street intersection in each direction.
3. Directional signs not over four (4) square feet in area indicating the location of churches, schools, hospitals, parks, scenic or historic places, or other places of general interest. Any such sign and mounting shall not exceed three (3) feet in total height.
4. One name sign or bulletin board not exceeding twelve (12) square feet for any permitted church, school or other non-commercial institution. The sign or board may be indirectly lighted and shall be set back at least fifteen (15) feet from the property line.
5. Temporary real estate signs, not exceeding six (6) square feet in area, advertising the sale, rent or lease of the premises on which located. However, these signs shall not be less than fifteen (15) feet from any street or lot line, shall not be illuminated, shall be neatly painted and maintained, and shall be removed promptly when the property has been sold, leased, or rented.
6. Temporary non-illuminated signs not exceeding six (6) square feet in area advertising the general contractor, contractor, subcontractor, architect, landscape architect or other such professional persons or organizations engaged in or associated with the lawful construction, alteration, remodeling, or demolition of any building or use. However,

these signs shall be limited to one for each organization involved and shall be set back from the property line at least fifteen (15) feet and shall be removed within thirty (30) days after the completion of the general contract.

7. A sign not to exceed two (2) square feet in area announcing the name, owner, or location of a dwelling.
8. Non-illuminated signs, not to exceed 16 square feet, announcing the name of a subdivision or group housing project located on the premises at major entrances. However, these signs must be neatly constructed and maintained, limited to announcing only the name of the subdivision or group housing project and must not obstruct corner visibility.
9. Directional signs in parking lots if required by Section 7.01 of this ordinance.

I. Signs Permitted in the B-1 Central Business District

1. On-Site Signs

For each lot, one (1) square foot of sign for each two (2) lineal feet of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of thirty two (32) square feet. No single sign may exceed sixteen (16) square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations. (Amended February 11, 2013)

- a. One (1) free standing sign per lot may be located either temporarily or permanently on the ground but shall not exceed sixteen (16) square feet in area and shall not exceed four (4) feet from the ground. For a lot which has frontage on more than one public right-of-way, there may be two (2) signs, neither of which may exceed sixteen (16) square feet in area. No visible metal parts, with the exception of wrought iron, shall be allowed on or attached to a sign. (Amended February 11, 2013)
- b. Window signs shall be placed only inside commercial building and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- c. Projecting signs may project from the building over the street right-of-way, alley or other public space provided the sign does not exceed beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corner. A sign may not project out from a building more than five (5) feet. The size of a sign may be no more than six (6) square feet. (Amended February 11, 2013)

2. Off-Site Signs

There shall be only one sign per organization as per following directions. All signs shall be muted colors appropriate to Historic Bath.

- a. Civic and benevolent club signs, not to exceed four (4) square feet.
- b. Directional signs not over four (4) square feet indicating the location of churches, schools, hospitals, parks, scenic or historic places, or other places of general interest. Any such sign and mounting shall not exceed three (3) feet in total height. (Amended March 10, 2003)

J. Signs Permitted in the B-2 General Business District

1. On-Site Signs

For each lot, in business use, two (2) square feet of business sign area for each lineal foot of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of three hundred (300) square feet. No single sign may exceed 128 square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations.

- a. Wall Signs placed against the exterior walls of buildings shall not extend more than six (6) inches beyond the building wall surface and shall not exceed twenty (20 percent of the exposed finished wall surface area including openings).
- b. One (1) free standing sign per lot may be located either temporarily or permanently on the ground but shall not exceed forty-eight (48) square feet in area and shall not exceed six (6) feet in height above street grade. For a lot which has frontage on more than one public right-of-way there may be two (2) signs, neither of which may exceed forty-eight (48) square feet in area. No visible metal parts shall be allowed on or attached to a sign. (Amended February 11, 2013)
- c. Window signs shall be placed only inside a commercial building and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- d. Projecting signs may project from the building over the street right-of-way, alley or other public space provided the sign does not extend beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such a sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corners.

2. Off-Site Signs

There shall be only one sign per organization as per following directions. All signs shall be muted colors appropriate to Historic Bath.

- a. Civic and benevolent club signs, not to exceed four (4) square feet.
- b. Directional signs not over four (4) square feet indicating the location of churches, schools, hospitals, parks, scenic or historical places, or other places of general interest. Any such sign and mounting shall not exceed three (3) feet in total height. (Amended March 10, 2003)

K. Signs Permitted in the Office/Institutional (O/I) District (Amended March 10, 2003)

1. On-Site Signs

For each lot, in O/I use, one (1) square foot of sign for each two (2) lineal feet of frontage on a public right-of-way may be allowed. However, the total sign area for any single lot may not exceed a total of thirty two (32) square feet. No single sign may exceed sixteen (16) square feet in area. The sign area may be in a single or in a combination of signs subject to the following limitations:

- a. One (1) free standing sign per lot may be located either temporarily or permanently on the ground, but shall not exceed sixteen (16) square feet in area and shall not exceed four (4) feet from the ground. For a lot which has frontage on more than one public right-of-way, there may be two (2) signs, neither of which may exceed sixteen (16) square feet in area.
- b. Window signs shall be placed only inside a commercial building and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed.
- c. Projecting signs may project from the building twenty-four (24) inches over the street right-of-way, alley or other public space provided the sign does not exceed beyond a vertical plane twenty-four (24) inches inside the curb line. The bottom clearance of such sign shall be at least ten (10) feet above the finished grade of the sidewalk along the street and at least fourteen (14) feet above grade at alleys and corners. The sign may not project out from building more than a total of five (5) feet. The size of the sign may be no more than six (6) square feet.

2. Off-Site Signs

There shall be only one sign per organization as per following directions. All signs shall be muted colors appropriate to Historic Bath.

- a. Civic and benevolent club signs, not to exceed four (4) square feet.
- b. Directional signs not over four (4) square feet indicating the location of churches, schools, hospitals, parks, scenic or historic places, or other places of general interest. Any such sign and mounting shall not exceed three (3) feet in total height.

SECTION 7.03 – OUTDOOR LIGHTING (Amended November 11, 2019)

Part 1 – Purpose

The purpose of this ordinance is to eliminate or minimize nuisances created by glare, obtrusive light, light trespass, and light pollution; maintain nighttime safety, utility, security and productivity; and curtail the degradation of the nighttime visual environment. This ordinance has been enacted pursuant to the Town's police powers to regulate the public health, safety and general welfare of persons and property as authorized by Article 8 of Chapter 160A of the North Carolina General Statutes and N.C. Gen. Stat. § 160A-381 *et seq.*

Part 2 – Definitions

Glare: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility. In addition, glare is also light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Light Trespass: Any form of artificial illuminance emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance, as specified in Part 3. Light Trespass is also the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Objectionable Direct Glare Source: Glare resulting from excessive levels of illumination or insufficiently shielded light sources emanating from light fixtures in the field of view where the lens, lamp or reflector is offensively visible above a height of five (5) feet at a property line or a public roadway.

Outdoor Light Fixture: An luminaire or electrically powered illuminating device containing a total light source of more than 2000 initial lumens per fixture or any spot or flood luminaire with a reflector contained in the lamp component such as a parabolic aluminized reflector (PAR) lamp, of more than 1000 initial lumens, which is permanently installed outdoors, including but not limited to, devices used to illuminate any site, architectural structure, or sign. It is often an assembly that houses the light, lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Shielded Light Fixture: A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees above nadir (straight down at perfect vertical), through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Direct Light or Glare: Light or Glare emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Flood or Spotlight: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Fully shielded lights: outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Height of Outdoor Light Fixture or Luminaire: The height of an outdoor light fixture or luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Lumen: A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture. Luminaires not conforming to this code that were in place at the time this code was voted into effect must be removed or changed within thirty (30) days of the date of execution of this Ordinance.

Outdoor Lighting: The evening and/or night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Part 3 – Regulations

A. All Outdoor Lighting or Luminaires, whether for illuminating sites, landscaping, trees, walkways, parking areas, buildings, signs, and/or other structures, shall be fully shielded, shaded, directed downward, designed and directed away from the sky, as well as all adjacent property and uses; and further shall not shine upon the right of way of any public road or shine upon any body of water. Any Luminaire with a lamp or lamps rated at a total of MORE than 2000 lumens, and all Flood or Spot Light or Luminaires with a lamp or lamps rated at a total of MORE than 1000 Lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the Luminaire.

B. Mounting Heights – The maximum height for Outdoor Light Fixtures shall be twenty-five (25) feet measured from final grade to the top of the Outdoor Light Fixture. For Outdoor Light Fixtures in the interior of development projects, the Planning Board for the Town of Bath may, subject to a public hearing and notification of all property owners of record within 300 feet of the subject parcel, approve greater mounting heights when **all** of the following conditions are met:

- a. Fewer luminaries will be required for the site; and
- b. The greater mounting height will not cause light trespass and/or glare beyond the property line for reasons of topography, screening, or similar circumstances; and
- c. The greater mounting height will contribute less artificial sky glow by reducing the intensity of the lighting beneath the light fixture.

C. Modifications

Subject to a public hearing and notification of all property owners of record within 300 feet of the subject parcel, the Board of Adjustment may grant a modification of the requirements of this Ordinance, except for

standards regarding shielding, if all of the standards, described below, are met. Conditions may be imposed on any modification. Any conditions shall relate to compliance with the purpose or requirements of this Ordinance. If a modification is based, in part, on a medical condition or physical limitation, then the modification shall terminate when the person, who has the medical condition or physical limitation, no longer habitually resides on the property or habitually visits the property. All of the following standards must be met before a modification may be granted:

- a. Neighboring properties or a public road will not be adversely affected; and
- b. Compliance with this ordinance would constitute an undue hardship. In determining whether an undue hardship exists, the Board of Adjustment shall apply the following standards and all of these standards must be met:
 - (i) The need for the modification is due to unique physical conditions of the subject site or a medical condition or physical limitation of a person, who habitually resides on the property or habitually visits the property;
 - (ii) The need for the modification is not due merely to the desires of the applicant or an economic hardship; and
 - (iii) The need for the modification is not a self-created hardship due to the actions of the current or prior property owners or a guest or invitee of the current or prior property owners.

D. Recreational Facilities

Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

- a. All fixtures used for event lighting shall be fully shielded as defined in Part 3 of this Ordinance, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare onto neighboring properties.
- b. All sporting or recreational events shall be scheduled so as to complete all activity before or as near to 9:00 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 9:30 p.m. except to conclude a scheduled event that was in progress before 9:00 p.m. and acceptable circumstances prevented concluding before 9:00 p.m.

E. Exempt Lighting

The following types of lighting are exempt from the standards of this Ordinance as may be stated:

- a. Holiday/Winter lighting for residential and commercial properties. The lighting associated with any national, state, local, or religious holiday or celebration is recommended to be lit for no more than six weeks prior and two weeks following the holiday.
- b. Lighting maintained and controlled by governmental agencies, including the Town and the County of Beaufort.
- c. Lighting of the U.S. or State Flag as it relates to directional lighting, but the same must still comply with the maximum amount of allowable lumens under this Ordinance.
- d. Emergency lighting as used by law enforcement, firefighters and other public safety agencies.
- e. Temporary construction lighting when used for periods up to 75 days and which meet the intent of this Ordinance.
- f. Any luminaire with a lamp or lamps rated at a total of 200 lumens or LESS, and all flood or spot luminaires with a lamp or lamps rated at 1000 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any Spot or Flood Light or luminaire rated at 1000 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward

residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

g. All temporary emergency lighting need by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.

h. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.

i. Law Governing Conflicts. Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

F. Prohibited Lighting

The following types of lighting are prohibited under this Ordinance:

a. Unshielded light sources of any type.

b. Unshielded lighting sources when used outdoors for building/landscape lighting or general outdoor lighting

c. Light fixtures designed such that the light source is visible from another property owner or that is visible from a public road or a body of water.

d. Laser source lights, strobe lights and neon lights in all residential districts.

e. Luminaires placed on top of fences or walls located along property boundary lines.

Part 4 - Violation as a Civil Infraction/Penalty

A. A violation of this Ordinance, or any provision thereof, shall be punishable by civil penalties as stated in paragraph C. of this Part 4 for any individual or entity for each violation. The imposition of a fine under this Code shall not be suspended. Each day of violation after the expiration of the ten-day period provided in paragraph B of this Part 4 shall constitute a separate offense for the purpose of calculating the civil penalty.

B. Any alleged violation of this Ordinance may be reported to the Town Clerk or Town Administrator. If, after investigation, the Town Administrator finds that any provision of the Ordinance is being violated, he shall give notice by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that violation be abated within ten (10) days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the ten day period, the Town Administrator may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this Ordinance and to collect the penalties for such violations.

C. The following fines shall be applicable:

<u>Offense</u>	<u>Fine</u>
-First offense	No fine/receipt of notice stated in B. above
-Second Offense after expiration of time stated in B. above	\$100.00 per day
-Third or subsequent offense	\$250.00 per day

D. The Town Administrator or an officer with the County Sheriff's office may issue a civil infraction citation or an appearance ticket for a violation of this ordinance.

Part 5 - Violation as a Nuisance Per Se

A violation of this ordinance shall also be a nuisance per se. The township shall have the authority to seek injunctive relief to seek compliance with this ordinance. This remedy shall be cumulative to any other remedy granted by this ordinance or by law.

Part 6 – Severability

If any part, section, clause, or provision of this ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of this ordinance. The Township Board declares that it would have passed this ordinance and each part, section, subsection, phrase, sentence and clause, irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses are declared invalid.

Part 7 – Inconsistent Ordinances

If the provisions of any Town of Bath Ordinance conflict with this Outdoor Lighting Ordinance, then the provisions of this Outdoor Lighting Ordinance shall take precedence and control.

Part 8 - Effective Date

This Ordinance shall become effective November 11, 2019.

SECTION 7.04 – CONVERSION OF EXISTING STRUCTURES TO CONDOMINIUM OWNERSHIP

Existing structures not in condominium ownership under the Unit Ownership Act of the State of North Carolina may be converted to unit ownership provided such buildings are historic in nature and such rehabilitation is performed under the Department of Interior, National Historic Preservation Guidelines and that the owner or developer shall comply with all provisions of this ordinance requiring a building permit and site plan approval before the existing structure may be converted to unit ownership in accordance with the North Carolina Unit Ownership Act, the structure shall meet all the requirements and standards of the current building code in effect in the Town at the time conversion is made. (Amended August 23, 2004)

SECTION 7.05 – HOME OCCUPATIONS

Home occupations may be approved as conditional uses in residential districts by the Planning Board under the provisions of Section 9.05 provided the following conditions are met as well as any additional conditions and safeguards that may be required by the Board as conditions of their approval.

No home occupations shall be permitted that:

1. Generates traffic, parking, sewage or water use in excess of that which is normal in a residential district.
2. Creates a hazard to persons or property or is a nuisance per se or per accidents
3. Results in outside storage or display of anything.

A. Permitted Occupations

In the R-1 and R-2 Zones, home occupations in the same lot accessory to principal uses shall be permitted in the following categories:

1. Offices for professional, personal or business service, except medical or dental doctors, chiropractors and other allied health professionals and veterinarians.
2. Dressmaking, sewing and tailoring.
3. Painting, sculpturing and writing.
4. Home crafts, such as weaving, assembly of small goods, pottery and art.
5. Tutoring.
6. Computer programming/repair and/or electronic services.
7. Income tax preparation.
8. Shops for limited or custom production or minor repair services.
9. Headquarters for a craftsperson or salesperson.
10. Home babysitting.
11. Tourist homes and bed and breakfast which may provide meals only for overnight guest.

B. Conditions

Any such home occupation shall comply with the following limitations:

1. There may be no more than two (2) employees other than those residents on the premises at any one time.
2. No building shall be used as a headquarters for the assembly of employees for instructions or other purposes or to be dispatched for work at other locations.
3. No activities shall be allowed which involve the use, storage, milling or manufacture of highly combustible materials or internal combustion engines.

4. All aspects of the conduct of a home occupation shall be confined, contained and conducted within the dwelling.
5. Not more than 50% of the total floor area of the principal and accessory building may be used for a home occupation.
6. Any home occupation which causes abnormal automotive or pedestrian traffic or which is objectionable due to unsightliness or emission of odor, dust, smoke, noise, glare, heat, vibration or similar causes discernible on the outside of any building containing such home occupation should be prohibited.
7. Dimensions, power rating or weight of such equipment and tools used in the conduct of the home occupation shall not exceed that of normal household equipment and tools.
8. The premises shall at all times be maintained as residential in appearance, cleanliness and quietness.
9. Only one sign not to exceed two (2) feet in height and three (3) feet in length may be erected in the corporate limits and four (4) feet in height and six (6) feet in length in the extraterritorial jurisdiction. The sign may be indirectly lighted.
10. Any materials used or any item produced or repaired on the premises shall not be displayed or stored so as to be visible from the exterior of the building.
11. Customer and client contact shall be primarily by telephone, mail, email, and other electronic communication or in their homes and places of business and not on the premises of the home occupation, except for those home occupations which by their very nature cannot otherwise be conducted except by personal contact with clients.
12. Products made or sold shall be disposed of solely by delivery from the premise to the homes or places of business of customers.
13. In the corporate limits, other than normal passenger automobiles, only one truck, class 4 (16,000 pounds) or smaller, is permitted to be operated, whether owned or rented, in connection with a home occupation
14. Instruction in music, crafts and dance shall be limited to no more than six (6) students at one time
15. Home babysitting shall be limited to the care of up to five children.

SECTION 7.06 – MOORING OF BOATS

The unattended mooring of vessels within the zoning jurisdiction of the Town of Bath for periods longer than seven (7) days is prohibited, subject to those allowed in Section 6.05 E.1. The occupancy of vessels within the zoning jurisdiction for the Town of Bath for longer than seven (7) days is prohibited.

The mooring of boats within public trust waters creates safety hazards for boat traffic and can interfere with public rights to access to, and use of, navigable waters and public resources. The long term occupancy of moored vessels within the public trust waters is a hazard to water quality and public health.

All temporarily moored boats must be lighted between sunset and sunrise.

SECTION 7.07 – REGULATIONS GOVERNING MARINAS

- A. Marinas, by this ordinance, are defined as private commercial, or public places which provide facilities for the launching and recovery of boats or any of the uses included in Section 7.07 B. below. Excluded from this definition are residential boat ramp facilities allowing access only and none of the permitted uses listed in 7.07 B.

B. Permitted Uses

Launching facilities, fuel supply facilities and accessory uses which are limited to restaurants, boat rentals and sales and service and water related recreational facilities. Dry and wet docking storage facilities are prohibited. Man-made development of canal channels and boat basins are prohibited excepted when accessibility by way of a launching requires such.

C. General Regulations

A site plan shall be presented to the Planning Board demonstrating that the following criteria have been met.

1. Site Plans

- a. Number of parking facilities. Adequate onsite parking facilities for vehicles and trailers shall be required for all boats launched.
- b. Marinas shall furnish adequate restroom facilities for all persons launching boats and lots shall be of sufficient size to meet requirements for adequate wastewater treatment of the County and State Health Department and in no case smaller than one acre.
- c. Building height limitation. The building height limitation is 35 feet.
- d. Minimum front yard. Minimum front yard is 10 feet.

- e. Minimum side yard is 15 feet. Side yard shall include a 7 to 10 foot buffer strip with planting.

2. Docks, Piers, and Ramps

- a. Docks, piers and ramps shall be so designed that they do not significantly interfere with water flows.
- b. Docks, piers, and ramps shall not be enclosed within breakwaters that preclude circulation sufficient to maintain water quality.
- c. Piers and docs shall be designed to minimize adverse effects on navigation and public use of waters while allowing the applicant to provide for the launched boat adequate access to deep water.
- d. Piers and docks shall not extend more than 150 feet into Bath Creek and 100 feet into Back Creek or to a distance which assures access to deep water, whichever is less.
- e. Docks and piers shall be designed so as to preclude the adverse effects of shading marsh vegetation. Structures which are built over vegetation marsh shall not exceed 5 feet in width.
- f. Pier and bulkhead construction and public offshore walkways shall be of construction quality described in the publication “Marinas-Recommendations for Design, Construction and Maintenance” by the National Association of Engine and Boat Manufacturers, Inc.”
- g. No docking facility shall be constructed so that a secured boat will be closer than 30 feet from the marshes designated as AEC’s.
- h. No pier, dock or ramp shall be constructed parallel to a public highway or bridge closer than 50 feet.
- i. Multiple Ramps. When more than one ramp is constructed at one facility, the ramps shall be constructed in parallel.
- j. No pier dock or ramp or any portion thereof shall be constructed as to come closer than 15 feet from the adjacent property line. Under this provision, the adjacent property line shall be considered the recorded line on the tract plus the imaginary extension of that property line from the point at which the property touches the Creeks’ high water mark, to the main channel.

3. Launching Requirements

- a. No boats with open heads shall be launched in either Bath or Back Creek.

4. Dredging

Marinas which require dredging shall provide acceptance areas to accommodate disposal needs for future maintenance dredging in accordance with 14 NCAC 7H Standards.

5. Facilities and Services

- a. All installments of plumbing and electrical wiring and all gas and oil appliances shall comply with the provisions of the building, plumbing, electrical, heating and gas ordinances and codes and any other applicable regulations of the town.
- b. Fuel pumps shall be equipped with back-pressure automatic shut-off nozzles.
- c. An adequate fresh water supply for patrons with boats is required.
- d. All commercial piers and marinas shall have installed pump-out facilities, either fixed or mobile, and have an adequate receiver into which raw sewage from the pump-out facility will be transferred. Acceptable receivers include a wastepipe connected to a septic tank or to a privately or municipally owned and operated wastewater treatment facility which has been properly approved by the agency having jurisdiction over such systems. Such pump-out facilities must be approved by the Beaufort County Health Department, N.C. Division of Health Services or the Division of Environmental Management. Marinas shall permanently display a sign at the marina indicating the location of said pump-out facility, listing the telephone numbers of local pump operators and other appropriate waste disposal information. Existing marinas are exempt until public disposal facilities are available.
- e. Trash disposal facilities shall be places at convenient locations along piers and the marina grounds area and shall be clearly marked.
- f. Plans shall be submitted to the Zoning Administrator which will show how the impact from pollutants likely to be generated by the operation of the marina and attendant vessels upon the natural system will be minimized (e.g. providing grease and sediment traps for storm water runoff).
- g. Disposal facilities shall be provided for the disposal of oil, gas, paint and other petroleum products and boat bottom residue at the marina. Signs shall be posted at appropriate locations and clearly marked which state that open dumping of wastes, including wastewater and trash, except in proper receptacles, is

prohibited, as is improper operation of motor driven boats which contribute gas and oil pollution to the public trust waters.

6. Signs

Except as required above, signs shall be in accordance with section 7.02 of this ordinance.

7. Certificate of Occupancy Required

No building, pier or dock shall be occupied, structurally altered, erected or moved, or its use changed until a certificate of occupancy has been issued by the Zoning Administrator in accordance with Section 9.08 of the ordinance.

8. Violation

If the Zoning Administrator finds that any of the provisions of this Section are being violated, he shall address said violation according to Section 9.09 of this ordinance.

9. Management

The marina owner or authorized attendant or caretaker shall be in charge at all times to keep the marina, its facilities and equipment in a clear, orderly safe and sanitary condition.

SECTION 7.08 – PROHIBITION OF HAZARDOUS WASTE

No person shall place or cause to be placed upon any lands within the Town limits, or the extra territorial zoning limits, any hazardous contaminated soils or other materials which have been removed from hazardous waste sites or otherwise created. The North Carolina Department of Environment, Health, and Natural Resources shall not issue any permits for any such application upon the lands within the Town limits or extra territorial zoning jurisdiction.

Nothing herein prohibits the application of farm chemicals applied by farmers or other professional applicators in the normal course of farming operations. Nothing herein prohibits the use of normal gardening chemicals or fertilizers, additives, or other such products when used in the normal method and manner of such gardening or lawn maintenance.

ARTICLE VII. HISTORIC ZONING DISTRICT

SECTION 8.01 – PURPOSE

The purpose of the Historic District is to promote the educational, cultural and economic welfare of the Town of Bath by preserving structures, sites, monuments, streets, squares and neighborhoods which serve as visible reminders of the history and cultural heritage of the town, thereby strengthening the economy of Bath by stabilizing and increasing property values and by encouraging new buildings that will be in harmony with the existing historic area.

SECTION 8.02 – DISTRICT BOUNDARIES

The Bath Historic District boundaries are defined on the map referred to in Section 2.01 of this ordinance.

SECTION 8.03 – PERMITTED USES HISTORIC DISTRICT – OVERLY DISTRICT

The Historic District shall overlap and overlay existing zoning districts. All use, dimensional, and other requirements for each zoning district shall remain in effect with the additional requirement that, within the Historic District, a certificate of appropriateness shall be obtained prior to the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant fixtures, or outdoor advertising signs in the Historic District as required by Section 8.05 of this ordinance.

SECTION 8.04 – HISTORIC DISTRICT COMMISSION

A. Creation

There is hereby established the Bath Historic Commission to consist of five (5) members.
(Amended November 14, 2016)

B. Membership

1. Tenure

Initially, one (1) member shall be appointed for a term of three (3) years, three (3) members shall be appointed for terms of two (2) years and one (1) member shall be appointed for a term of one (1) year. Thereafter, each member of the Historic District Commission shall serve a term of three (3) years, and shall be eligible for appointment for two (2) successive three (3) year periods. Said three (3) year terms shall be staggered by the Town Board of Commissioners. The Town Board of Commissioners shall annually appoint the Chairman of the Historic District Commission, if any. Any member shall be ineligible for reappointment until after one (1) year has elapsed from the date of completion of his/her latest term.
(Amended November 14, 2016)

2. Representation

All five (5) of the members of the Historic District Commission shall reside within the historic District of the Town at the time of their appointment. All five (5) members shall be appointed by the Town Board of Commissioners. A majority of the members shall have

demonstrated special interest, experience, or education in history or architecture. (Amended November 14, 2016)

3. Attendance of Meetings

Any member of the Historic District Commission who misses more than three (3) consecutive meetings shall lose his or her status as a member of the Commission and shall be replaced or reappointed by the Bath Town Council. Absence due to sickness, death or other emergencies of similar nature shall be recognized as approved absences and shall not affect the member's status on the Commission. In the event of a long illness or any other cause for prolonged absence, the member shall be replaced.

C. Meetings

The Historic District Commission shall establish a monthly meeting time, and shall meet at least annually and more often as it shall determine and require. All meetings of the Commission shall be open to the public.

D. Rules of Procedure

The Historic District Commission shall adopt rules of procedure for the conduct of its business, and an annual report shall be prepared and submitted by July 1st of each year to the Town Board. The Commission shall keep a record of its member's attendance, and of its resolutions, findings, and recommendations, which record shall be a public record.

E. Authority and Powers

The Historic District Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this ordinance and Part 3C, Article 19 of Chapter 160A of the North Carolina General Statutes, including, but not limited to the following: (Amended December 14, 2009)

1. Review of Application for Certificate of Appropriateness

The Commission shall have authority to consider and grant or deny applications for certificates of appropriateness in accordance with Section 8.05 of this ordinance. As a basis for its review, the Commission may require an applicant to provide such photographs, architectural drawings and elevations or any other documentation which it may by rule prescribe and in its discretion deem reasonably necessary for the review of an application. Request for such documentation shall be made within 30 days of receipt of the application for certificate of appropriateness.

2. Other Powers

The Historic District Commission shall have authority to act as or to establish an advisory group to give advice to property owners concerning the historic and aesthetic characteristics of their properties in the Historic District. The Commission may initiate and undertake any programs of information, research, or other activity relating to any matters under its jurisdiction; and it may contract, with the approval of the Town Council, for services or funds from the State of North Carolina and agencies or departments of the United State government. The Commission may request technical assistance and advice

from any department of the Town of Bath. The Commission shall have authority to recommend to the Town Board and the State of North Carolina structures or sites of historic significance worthy of national, state or local recognition. The Commission shall cooperate, consult, and advise with the Town Clerk and Town Board, the Beaufort County Historical Society and appropriate State agencies in matters effecting proposed policies, programs, personnel, finances, and acquisition and disposal of lands and properties relating to a total community historical program and to a long-range projected program for the development of the historical resources of the Town of Bath.

SECTION 8.05 – CERTIFICATE OF APPROPRIATENESS REQUIRED

After the designation of a Historic District, no exterior portion of any building or other structure (including stone walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor any type of outdoor advertising sign shall be erected, altered, restored or moved within that district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission. This certificate shall be required to be issued by the Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures as required in Article IX of this ordinance. A certificate of appropriateness shall be required whether or not a building permit is required. The Town of Bath and public utilities shall be required to obtain a certificate of appropriateness only when changes in character of public facilities, utility facilities, lighting, or public buildings are proposed.

A. Exterior Architectural Features

For the purpose of this ordinance, “exterior architectural features” and “exterior features” shall carry the same meaning and definition as the term “exterior features” carries in the N.C. Gen. Stat. 160A-400.9. “Exterior architectural features” and “exterior features” shall also include historic signs, color, and significant landscape, archaeological, and natural features of the area.

B. Architectural Review Guidelines

It is in the intention of these regulations to insure that buildings or structures in the historic district shall be in harmony with other buildings or structures located there. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of them or to impose architectural styles from particular historic periods, or to require that utility facilities be placed underground.

To provide reasonable standards to assist the Historic District Commission on its review of design, the following guidelines shall be considered, when relevant, in reviewing applications for a certificate of appropriateness:

- Lot coverage, defined as the percentage of lot area covered by principal and accessory structures.
- Setback, defined as the distance from the edge of the right-of-way to the building.
- Height, defined as building height.
- Land use as defined by zoning regulations.
- Spacing of buildings, defined as the distance between adjacent buildings.

- Exterior building materials and roofing materials.
- Surface textures.
- The proportion of width to height or windows and doors within the façade.
- Utilization of local or regional architectural traditions such as porches, cupolas, and details.
- Roof form and pitch in relation to the façade.
- Shape and form of the building, and relationship of any additions to the main structure.
- Expression of architectural detailing.
- Orientation of the building to the street.
- Scale, determined by the size of units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space.
- Proportion of width to height of the total building façade.
- Effect on street trees.

C. Required Procedures

The 2010 Bath Historic District Commission Rules of Procedure attached to this ordinance amendment shall be the rules and procedures followed by the Historic District Commission when considering applications for certificates of appropriateness within the jurisdiction.

D. Review by the Department of Cultural Resources

The Department of Cultural Resources, acting through the agent or employee designated by its Secretary, or the North Carolina Advisory Council on Historic Preservation, shall, either upon the request of the Department or at the initiative of the Historic District Commission, be given an opportunity to review, comment and make recommendations upon the substance and effect of any application for a certificate of appropriateness. If any certificate is issued contrary to the recommendations of the Department, the Historic District Commission shall enter the reasons in the minutes of the meeting at which the action is taken, and a copy of the minutes shall be forwarded to the Department by the Commission's secretary. If the Department does not submit its comments or recommendations in connection with any application within thirty (30) days following receipt by the Department of any materials needed for its review of the application, whether such review is at the request of the Department or the Historic District Commission, the Commission and any city or county governing board shall be relieved of any responsibility to consider those comments and recommendations. In this case, the certificate of appropriateness may thereafter be issued without regard to the requirements of this program.

SECTION 8.06 – INTERIOR ARRANGEMENT NOT CONSIDERED

The Historic District Commission shall not consider interior arrangement and shall take no action under this Article except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant fixtures, or outdoor advertising signs in the Historic District which would be incongruous with the historic aspects of the district.

SECTION 8.07 – CERTAIN CHANGES NOT PROHIBITED

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair or replacement or removal of any exterior architectural feature or structure or utility facility in the Historic District which does not involve a substantial change in design, material or outer appearance. Ordinary maintenance or repair includes such activities as repainting, landscaping, replacement or worn or damaged parts, and replacement of mechanical or electrical installations. Furthermore, this article is not intended to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Zoning Administrator shall certify is required by the public safety because of an unsafe or dangerous condition. If the proposed change involves any of the preceding activities or conditions a certificate of appropriateness will not be needed.

SECTION 8.08 – DELAY IN DEMOLITION OF HISTORIC BUILDINGS

Any person desiring to demolish or otherwise remove any structure or building within the Town of Bath Historic District shall give notice to the Town of Bath Historic District Commission to said proposed action in order that the Commission or others may find a means of preserving the building. Upon the receipt of said notice, the Historic District Commission shall publish notice of the owner's intention to remove or demolish said structure, at least once within fifteen (15) days of receipt of said notice, in a newspaper regularly published in the area. Additionally, a notice shall be sent to all adjoining property owners, and a notice shall be posted at the Town Offices.

Should the Historic District Commission determine that the building structure has no particular historic significance or value towards maintaining the integrity and character of the Bath Historic District, it may waive all but the first forty-five (45) days of the three hundred sixty five (365) day period set out below. If the Historic District Commission finds that the building involved has particular historic significance or value toward maintaining the integrity and character of the Bath Historic District, the owner shall not remove or demolish said structure for a period of three hundred sixty five (365) days from the date of the Notice of Intent to demolish. During that time period, the owner, the Historic District Commission and any other interested parties shall attempt to agree upon a plan to prevent the demolition of the structure by purchase, preservation or relocation.

Nothing herein shall require an owner to agree to any plan or purchase, preservation or relocation, and if no such plan is agreed upon at the expiration of three hundred sixty five (365) day period, the owner may proceed with said removal or demolition.

ARTICLE IX. ADMINISTRATION AND ENFORCEMENT

SECTION 9.01 – ZONING ADMINISTRATOR

The Zoning Administrator designated by the Board of Commissioners shall administer and enforce this ordinance. He may be provided with the assistance of any other persons which the Board may direct. The Zoning Administrator shall have all necessary authority to administer and enforce the zoning ordinance, including the power to order in writing the correction of any condition found in violation of the ordinance, and the power to bring legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding.

SECTION 9.02 – CERTIFICATE OF ZONING COMPLIANCE REQUIRED

No building or other structure shall be erected or moved, nor shall any existing building or structure be altered in any manner, unless a certificate of zoning compliance has been approved by the Zoning Administrator (and buildings permit acquired from the County). The certificate shall expire by limitation, six (6) months from date of issuance if work specified by the certificate has not commenced. If after commencement the work is discontinued for a period of twelve (12) months, the certificate for it shall immediately expire. No work specified by any certificate that has expired shall then be performed until a new certificate has been secured. A fee for the certificate shall be paid to the town according to a regularly adopted fee schedule. (See also section 4.14 and section 4.15 of this ordinance).

SECTION 9.03 – WATER SUPPLY AND SEWAGE DISPOSAL REQUIREMENTS

The Zoning Administrator shall not issue a certificate of zoning compliance for any use or structure requiring a water supply or sewage disposal or both unless the application is accompanied by approval in writing by the appropriate authority of the water supply and method of sewage disposal. If the use or structure is a marina or other commercial water-based project, no certificate of zoning compliance shall be issued without ascertaining a conformance with Section 7.08 of this ordinance.

SECTION 9.04 – APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR PERMITTED USES

All applications for Certificate of Zoning Compliance shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include any other information which may be required by the Zoning Administrator, including existing or proposed uses of the building and land; and the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot and on nearby lots; elevations of finished floors; and way other matters which may be necessary to determine conformance with and provide for the enforcement of this ordinance. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he has marked the copy either as approved or disapproved and attest to that by his signature on the copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Administrator.

SECTION 9.05 – APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR
CONDITIONAL USES

The Board of Commissioners may approve certificates of zoning compliance for conditional uses in the Zoning Districts where conditional uses are specified by this ordinance. Applications for permits under Section 7.06 Conversion of Existing Structures for Condominium Ownership shall also be processed under this section.

- A. Written application for a conditional use permit shall be submitted to the Zoning Administrator at least ten (10) days before the next regularly monthly meeting of the Planning Board. The written application shall indicate the section of this ordinance under which a permit is being sought and shall contain the information required by the appropriate section and any other information which may be required to insure compliance with this ordinance.
- B. The Planning Board shall review the application for a conditional use permit and shall submit its recommendation as approval or disapproval along with any additional conditions or safeguards it may consider necessary to the Board of Commissioners.
- C. When it is considered desirable by the Planning Board or the Board of Commissioners a public hearing may be held on any conditional use. Notice by means of placard posted on the property concerned shall give at least fifteen (15) days in advance of public hearing. The owner of the property for which the conditional use is sought or his agent shall be notified by mail at least fifteen (15) days prior to the public hearing.
- D. Any party may appear in person or be represented by agent, or attorney.
- E. Before they may grant a certificate of zoning compliance for any conditional use, the Board of Commissioners shall make findings that: (1) the application has met the requirements of the ordinance; (2) granting the certificate will be in general conformity with the town's plan of development; (3) the proposed use will be compatible with the area in which it is to be located if developed under the conditions specified in the ordinance and those additionally required by the commissioners.
- F. In granting any certificate of zoning compliance, the Board of Commissioners may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of those conditions and safeguards, when made a part of the terms under which the certification is granted, shall be considered a violation of this ordinance and punishable under Article X of this ordinance. The Board of Commissioners shall prescribe a time limit within which the action for which the certificate is required shall be begun or completed, or both. Failure to comply within the time limit set shall void the certificate. If any of the conditions of approval or any part of them should be held invalid or void, the permit shall be void immediately.

SECTION 9.06 – SITE PLAN REVIEW

A. Purposes

The purposes of site plan review are to protect and enhance public health, safety, welfare and property, and more specifically to encourage site planning in advance of construction, also to protect neighboring owners and users, conserving and enhancing the natural and man-built character of the Town of Bath.

B. Where Required

Site plan approval shall be required for all development on, or of, the real property in the following districts in accordance with the provisions of this section, and no certificate of compliance or other authorization for development shall be issued prior to such approval. This section (9.06) is application in zoning districts B-1, B-2, R-1, R-2, W-1, O & I and also for all conditional uses and non-residential uses in all zones. Parking lots shall require site plan approval. Site plan review shall not alter the type and category of uses permitted in zoning districts. (Amended February 11, 2013)

C. Plans Required

A site plan or plans, to scale, shall be submitted to the Town and shall include the location of all proposed buildings and structures, parking and servicing areas and landscaping. Alterations from existing conditions shall be noted. Sufficient detail shall be required to enable review according to the standards set forth herein.

D. Standards

1. The following shall be required on all site plans and for all development reviewed:
 - a. A minimum of ten percent (10%) of the lot area being developed shall be landscaped, including a mix of vertical (trees) and horizontal elements (grass, ground cover, etc.). Major remodeling and properties in the “CBD” Central Business District shall require landscaping to the extent possible up to the ten percent (10%) requirement.
 - b. Natural landscaping shall be retained where possible to meet the landscaping requirement.
 - c. Unnecessary grade changes shall be avoided. Retaining walls shall be provided where needed.
 - d. Drainage shall be as approved by Zoning Administrator according to accepted engineering standards.

- e. Off-street parking shall be buffered from the street and adjacent residential zones by means of landscaping or a low fence, but not to the extent of restricting visibility necessary for safety and security.
 - f. Ingress and egress location on public thoroughfare shall be located in the interest of public traffic safety
 - g. Parking spaces shall be designed according to section 7.01.
 - h. There shall be reasonable access for emergency services (fire and police).
 - i. Outdoor lighting shall be provided for security and with minimum glare.
 - j. A brick exterior or horizontal siding is required in the form of plat board, vinyl, hardy plank, wood or the like. Corrugated metal siding is not permitted. Vertical siding is not permitted. (Amended February 11, 2013)
 - k. All disposal and waste containers and areas on lots shall be located in areas such that visibility of the same is eliminated, if possible, or minimized by concealing the same behind structures or through the use of portioning, shielding, fencing, landscaping or the like.
2. In addition, the following shall be required on those site plans for commercial and industrial uses, conditional uses and non-residential uses, and for such development:
- Emitting of odor, dust, smoke, fumes, noise, glare, heat, and vibration shall be minimalized.
3. All construction shall adhere to the historical overtone displayed with the Historic District for the Town, as well as the nature and overtone of the surrounding properties within the applicable district. (Amended February 11, 2013)

E. Pre-Application Conference

All applicants are required to participate in a pre-application conference prior to submission of preliminary plans.

The purpose of the pre-application conference is to provide the applicant with the opportunity to explain the proposed development concepts, and for the staff to explain all the policies, ordinance, standards, opportunities and constrains which may be applicable to the site and type of proposed development, before the applicant has invested substantial design time or become committed to particular to design solutions.

F. Planning Board Review Process

1. The applicant shall submit four (4) copies of the site plan to the Zoning Administrator not less than fourteen days prior to the Planning Board meeting at which time it will be reviewed.
2. The Planning Board shall consider the application and either approve, modify, or deny the site plan.
3. If the Planning Board denies the site plan, it shall, in the minutes of the meeting at which the action is taken set forth in writing the precise reasons why the finding was made and after suggestions as to how the deficiency could be resolved, or that it is incapable of solution consistent with the applicant's objectives. Any finding that does not include such a statement shall not be entitled to a presumption of validity in any appeal from a decision of the Planning Board.

G. Plan Modification

Modifications of the original plans may be authorized by the Planning Board. The Zoning Administrator shall determine whether proposed changes from the approved plans are substantial enough to constitute modifications of the approved plans. The decision of the Zoning Administrator may be appealed as provided by the law. In making his decision, the Zoning Administrator shall assess the plan in relation to the following.

1. Any changes in the signs as approved shall constitute a modification.
2. Any change in density shall constitute a modification.
3. Any change in parking areas resulting in a reduction of five (5) percent or more in the number of spaces shall constitute a modification. In no case shall the number be reduced below the minimum required by this ordinance.
4. Changes in vehicular or pedestrian traffic flow patterns shall constitute a modification.
5. Change in recreation areas or facilities shall constitute a modification. In no case shall recreation areas be reduced below the minimum required by this ordinance.

H. Violations

In the event of failure to comply with the plans approved by the Planning Board or with any other condition imposed upon the site plan, the plan shall thereupon immediately become void and of no effect and no building permits for further construction or Certificates of Compliance shall be issued; all completed structures shall be regarded as nonconforming uses subject to the provisions of section 5.0 of this ordinance.

SECTION 9.07 – PROJECT IMPACT STATEMENT

Prior to any recommendation of the Planning Board and/or the issuances of any building permit or Certificate of Compliance involving a significant development project, the private or governmental developer may be required to submit a statement (to accompany the site plan) addressing any changes, positive or negative, in the social, economic, or natural surroundings of the Town of Bath with may result from implementation of said project.

A significant development shall include shopping center, subdivision, and other housing projects and industrial, commercial, institutional, public works projects. Except for the uses stated in this paragraph, significant development projects shall not consist of any project of less than 1 acre, or structures less than five hundred (500) square feet in gross floor area.

SECTION 9.08 – CERTIFICATE OF OCCUPANCY REQUIRED

No land shall be used or occupied and no building, pier or dock hereafter structurally altered, erected or moved shall be used or its use changed until a certificate of occupancy shall have been issued by the Zoning Administrator stating that proposed use and any buildings comply with the provisions of this ordinance. A similar certificate shall be required for the purpose of renewing, changing, or extending a non-conforming use. A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a building permit and may be issued within ten (10) days after the work has been completed in conformity with the provisions of this ordinance. A record of all certificates shall be kept on file by the Zoning Administrator.

A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that the temporary certificate may require conditions and safeguards to protect the safety of the occupants and the public.

SECTION 9.09 – VIOLATION

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation, and order the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violations of its provisions.

ARTICLE X. PENALTY

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the Zoning Administrator, or any appropriate authority in addition to other remedies, may institute an appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Violations of the provisions of these regulations shall be a misdemeanor under the North Carolina General statute 14-4 and each day's continuing violation shall be a separate offense. Notwithstanding the criminal penalties, the Zoning Administrator may institute a civil action against the offender seeking enforcement by appropriate equitable remedy, injunction and order of abatement of by any remedy authorized by North Carolina General Statute 160A-175 and 150A-389, as amended.

Any person violating any provision of this ordinance shall, upon conviction, be punished for each offense by a fine not to exceed fifty (\$50.00) a day or imprisonment not to exceed thirty (30) days. Each day that a violation continues shall be deemed a separate offense.

ARTICLE XI. BOARD OF ADJUSTMENT

SECTION 11.01 – BOARD OF ADJUSTMENT ESTABLISHED

A Board of Adjustment is hereby established. The word “Board” when used in this Article shall be construed to mean the Board of Adjustment. The Board shall have five (5) regular members and three (3) alternates. Three (3) regular members and two (2) alternates shall reside within the corporate limits of the Town at the time of their appointment. These three (3) regular members and two (2) alternates shall be appointed by the Town Board of Commissioners. Two (2) regular members and one (1) alternate shall reside outside the corporate limits of the Town, but within the territorial jurisdiction of the Town at the time of their appointment. These two (2) regular members and one (1) alternate shall be appointed by the County Commissioners of Beaufort County. Initially, one (1) of the initial Board members shall be appointed for a term of one (1) year; two (2) members shall be appointed for terms of two (2) years; and two (2) members and the three (3) alternative members shall be appointed for terms of three (3) years. Thereafter, each member shall serve a term of three (3) years, and shall be eligible for appointment for two (2) successive three (3) year periods. Said three (3) year term shall be staggered by the Town Board of Commissioners. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Town Board of Commissioners upon written charges and after public hearing. (Amended October 12, 2009)

SECTION 11.02 – CHAIRMAN OF THE BOARD

The Mayor shall designate one (1) of the members as chairman and another as vice-chairman who shall serve for one (1) year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this section.

SECTION 11.03 – MEETINGS OF THE BOARD

All meetings of the Board shall be held at a regular place and shall be open to the public. A quorum of members shall be present at the designated meeting place before a vote is taken or final disposition of any appeal is made upon which the Board is required to pass. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of that fact. The final disposition of appeals shall be by recorded resolution indicating the reasons of the Board shall be a public record. In the event a regular member shall be absent, an alternate member shall be notified to serve in the place of the regular member. Alternate members shall not otherwise participate in deliberation of the Board on any matter under the following sections. (Amended October 12, 2009)

SECTION 11.04 – POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

(Amended March 10, 2014)

The Board of Adjustment may hear and decide appeals/requests for variances, appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance, and any other appeals of decisions of administrative officials charged with enforcement of this ordinance. As used in this section, the term "decision" includes

any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and appeals/requests for variances. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

- A. Notice of Hearing - Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. All public or quasi-judicial hearings shall be held as noticed.

- B. Appeals - The board of adjustment shall hear and decide appeals from decisions of the Zoning Administrator charged with enforcement of this zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:
 - 1. Any person who has standing under G.S. 160A-393(d) or the Town may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.
 - 2. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
 - 3. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
 - 4. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
 - 5. The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

6. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
 7. Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
 8. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.
 9. When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
 10. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.
- C. Variances - When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:
1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district;
6. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of variance.

No change in permitted uses may be authorized by variance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection. A fee in accordance with a regularly adopted fee schedule of the Town shall be paid to the Town for each application for variance to cover the administrative expenses involved.

D. Voting

1. The concurring vote of four-fifths (4/5ths) of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter, including appeals of decisions of the Zoning Administrator, or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board of Adjustment for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
2. A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

E. Quasi-Judicial Decisions and Judicial Review

1. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards, as well as findings that the requirements stated in Subparagraph (3) hereinabove have been met.

2. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
 3. The Board of Adjustment shall further make a finding that granting the variance will be in general conformity with the Town's plan of development and will not be injurious to the neighborhood, or otherwise detrimental to the public.
 4. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Town Clerk. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to or on the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.
 5. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.
- F. Oaths - The Chair of the Board or Adjustment or any member acting as chair and the Town Clerk are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.
- G. Subpoenas - The Board of Adjustment through the Chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

SECTION 11.05 – APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT

Any appeal from a decision of the Board of Adjustment to Superior Court shall be taken within thirty (30) days after the decision is filed in the office of the Town Administrator of the Town of Bath or after a copy of the decision is delivered to the appellant by registered mail, whichever is later. The Zoning Administrator shall file decisions of the Board of Adjustment in the office of the Town Administrator and shall send a copy by registered mail to the appellant on the next working day after a decision is rendered.

SECTION 11.06 – DUTIES OF ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT,
COURTS, AND BOARD OF COMMISSIONERS AS TO MATTERS OF
APPEAL

It is the intention of this ordinance that all questions arising in connection with its enforcement shall be presented first to the Zoning Administrator and that questions shall be presented to the Board of Adjustment only on appeal from Zoning Administrator. From the decision of the Board of Adjustment recourse shall be had to courts as provided by law. The duties of the Board of Commissioners in connection with the ordinance shall not include hearing and passing upon disputed questions that may arise in connection with the enforcement of it. The procedure for determining those questions shall be as set out in this ordinance, and the duties of the Board of Commissioners in connection with this ordinance shall be only the duty of considering and passing upon any proposed amendment or approving any conditional permit as provided by this ordinance.

ARTICLE XII. CHANGES AND AMENDEMTNS

SECTION 12.01 – MOTION TO AMEND

The Board of Commissioners may, on its own motion or upon motion or upon petition by any person within the zoning jurisdiction of the Town, after public notice and hearing, amend, supplement, change, modify or repeal these regulations or the maps which are part of this ordinance, subject to the rules prescribed in this ordinance. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing is held in relation to it, at which parties in interest and citizens shall have an opportunity to be heard. A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper of general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days prior to the date affixed for the public hearing.

SECTION 12.02 – APPLICATION

An application for any change or amendment to the text of the ordinance shall contain a statement of the present and proposed zoning regulation. An application for a map change shall contain a legal description of the property involved. The application shall be filed with the Zoning Administrator not later than ten (10) days prior to the meeting of the Planning Board at which the application is to be considered.

The applicant for a change in the zoning classification of a parcel of land shall provide to the Zoning Administrator a list of name and addresses, as obtained from the county tax listing, of the owners of all abutting property and all owners of property within the area under consideration for rezoning along with a business (#10) envelope stamped with a first class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight (8) work days prior to the Town Board's public hearing. The Zoning Administrator shall verify the list and mail notices of the public hearing to each person on the list at least three (3) days in advance and shall certify that fact to the Town Board of Commissioners.

SECTION 12.03 – PROTEST AGAINST AMENDMENT

In case of a protest against an amendment, supplement, change, modification or repeal signed by the owners of twenty percent (20%) or more either of the area of the lots included in the proposed change, or of those immediately adjacent to it either in the rear of it or on either side of it, extending one hundred (100) feet from it, or of those directly opposite extending one hundred (100) feet from the street frontage of the opposite lots, the amendment shall not become effective except by a favorable vote of three-fourths of all the members of the Board of Commissioners. The provisions of this section shall not apply to any amendment which initially zones property added to the territorial coverage of this ordinance as a result of annexation or otherwise.

SECTION 12-04 – PROTEST PETITION: FORM; REQUIREMENTS; TIME FOR FILING

No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purpose of Section 12.03 of this ordinance, unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest that the proposed change or amendment, and unless it shall have been received by the Town Clerk

in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

SECTION 12.05 – PLANNING BOARD ACTION

Every proposed amendment, supplement, change, modification or repeal to this ordinance shall be referred to the Planning Board for its recommendation, and its report has been received by the Commissioner. This report shall elaborate on the compatibility of the proposed amendment with the officially adopted land use plan. No proposal shall be considered by the Planning Board within five (5) days from the filing of the proposal with the Zoning Administrator or Town Clerk. All petitions for a change in the zoning map shall include a legal description of the property involved and the names and addresses of abutting property owners of the proposed change.

SECTION 12.06 – FEE

A fee according to a regularly adopted fee schedule of the Town shall be paid to the Town for each application for an amendment to this ordinance or map to cover the costs of advertising and other administrative expenses involved.

ARTICLE XIII. LEGAL STATUS PROVISIONS

SECTION 13.01 – INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to conflict with other laws or to interfere with or abrogate or annul any easement, covenants, or other agreements between parties. Where this ordinance imposes a greater restriction upon the use or building or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall govern. Where the provisions of any other ordinance, law, or covenant require more restrictive standards, provisions shall govern.

SECTION 13.02 – VALIDITY

Should any section or provision of this ordinance be declared invalid by the courts, such decision shall not affect the validity of the ordinance as whole or any part thereof, except the part so declared as invalid.

SECTION 13.03 – EFFECTIVE DATE

This ordinance shall become effective from and after its passage by the Board of Commissioners.

SECTION 13.04 – PRIOR INCONSISTENT ORDINANCES

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are to the extent of such inconsistency, hereby repealed.