



Town of Jamestown  
Planning Board

*Welcome to the Town of Jamestown Planning Board meeting. We appreciate your interest and we encourage public participation in our meeting. Your comments are important to our decision making process. Please note that there will be opportunities during the meeting for you to address the Board members. The first opportunity will come if there is a public hearing on the agenda, when the Chair declares the hearing open for comment. The second opportunity to address the Board will come near the end of the agenda when the Chair will inquire if anyone wishes to address the members of the Board. Anyone addressing the Board will approach the podium; give your first and last name and your complete physical address. Comments may be limited to three minutes.*

TO: Planning Board Members

FROM: Anna Hawryluk, AICP – Town Planner

RE: **Regular Meeting**  
**Monday, February 14, 2022 – 6:00PM**  
**Jamestown Town Hall, Civic Center Chambers**

Items on the agenda:

1. Call to Order – Anna Hawryluk, AICP, Town Planner
2. Election of Chair of the Planning Board – Anna Hawryluk, AICP, Town Planner
3. Election of Vice-Chair of the Planning Board – Chair of the Planning Board
4. Roll Call – Anna Hawryluk, AICP, Town Planner
5. Setting Regular Meeting Schedule for 2022 – Chair of the Planning Board
6. Approval of minutes from March 8, May 10, August 11, September 20, and November 8th, 2021 meetings – Chair of the Planning Board
7. Public Hearings:  
*Procedure: Staff will present the case to the Board. The Chair will open the public hearing and request to hear from both those in favor and those opposed. If you wish to address the Board during the public hearing, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you at this time, even if direct questions are asked. **Once the public hearing is closed, no one may speak on the issue unless specifically requested by the Board Chair.***
  - A. LDO Amendments – Anna Hawryluk, AICP, Town Planner
    - a. Vote on recommendation to Town Council –Chair of the Planning Board

b. Adoption of the Statement of Consistency –Chair of the Planning Board

8. Public Comment Period: (Limited to a total of 30 minutes)

*Procedure: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. **It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting.** Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.*

9. Adjourn

10. Next regularly scheduled meeting will be March 14, 2022 at 6PM in the Civic Center Chambers.

\*\*Due to COVID-19, attendees will be required to wear a mask upon entry to Town Hall and throughout the duration of the meeting. If you wish to address the Board, it is advisable that you contact the Town Clerk at 336-454-1138 before 12 noon on the date of the meeting to place your name on the list of speakers.\*\*

The meeting will be broadcast live on the Town’s YouTube channel at:

<https://www.youtube.com/townofjamestownnc>

Click “Subscribe” and tap the “bell” icon to be notified when we go live.

**WORKING AGENDA**

*Items on the agenda:*

**1. CALL TO ORDER – Anna Hawryluk, AICP, Town Planner**

Welcome to the **Feb. 14, 2022, Planning Board meeting**. In order to allow all attendees to be able to hear Board business, I would ask that at this time, members of the board and the audience please set your cell phones to “SILENT”. As a reminder, there are generally two opportunities for the public to address the Board. One will be during the “PUBLIC COMMENT” portion of the agenda. Speakers during that portion of the meeting will be limited to 3 minutes per speaker and were requested to sign up to speak with the Town Clerk. The other opportunity will be during any “PUBLIC HEARING”, when instructed by the Chair to do so. Speakers in a “PUBLIC HEARING” will be asked to keep their comments brief and must speak to the topic being considered. Thank you.

**2. Election of Chair of the Planning Board – Anna Hawryluk, AICP, Town Planner – The Chair and Vice-Chair will be elected by the \*regular\* members. ETJ members will not vote on the election.**

**3. Election of Vice-Chair of the Planning Board – Chair of the Planning Board**

**4. ROLL CALL**

	<b>Present</b>	<b>Absent</b>
Sarah Glanville	<input type="checkbox"/>	<input type="checkbox"/>
Dennis Sholl	<input type="checkbox"/>	<input type="checkbox"/>
Jane Walker Payne	<input type="checkbox"/>	<input type="checkbox"/>
Ed Stafford	<input type="checkbox"/>	<input type="checkbox"/>
Russ Walker	<input type="checkbox"/>	<input type="checkbox"/>
Robert Coon, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Cara Arena, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Donald Dale, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Sherrie Richmond, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Rebecca Rayborn, Council Rep.	<input type="checkbox"/>	<input type="checkbox"/>

**5. Setting Regular Meeting schedule for 2022 – Chair of the Planning Board**

**6. Approval of Minutes: March 8, May 10, August 11, September 20, and November 8th, 2021, meetings – Chair of the Planning Board**

**a. Request from Staff: Staff requests approval of minutes from March 8, May 10, August 11, September 20, and November 8th, 2021 meetings as presented.**

**i. Motion:**

- ii. **Second:**
- iii. **VOTE:**

**7. Public Hearings**

- A. LDO Amendments – Anna Hawryluk, AICP, Town Planner
  - a. Vote on recommendation to Town Council –Chair of the Planning Board
    - i. **Motion:**
    - ii. **Second:**
    - iii. **VOTE:**
  
  - b. Adoption of the Statement of Consistency –Chair of the Planning Board
    - i. **Motion:**
    - ii. **Second:**
    - iii. **VOTE:**

**8. Public Comment (LIMITED TO A TOTAL OF 30 MINUTES)**

- a. *Reminder from Board Chair to audience: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting. Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.*

**9. Adjourn**

- a. **Motion to adjourn:**
- b. **Second:**
- c. **VOTE:**

**10. Next regularly scheduled meeting will be March 14 , 2022, at 6:00pm in the Civic Center Chambers.**

Each year, the Planning Board’s Rules of Procedure requires that the Board name a Chair and Vice-Chair for that year. Generally, this happens at the January meeting, or the first regular meeting of each year if one is not held in January. The rules of procedure state that the staff shall call the meeting to order and conduct the meeting until the Chair has been named. At that time, I will turn the meeting over to the Chair and they will conduct the election of the Vice-Chair.

I will begin by accepting nominations from the floor for the Chairman of the Planning Board. Nominations will be recorded in the order in which they are received. I will ask twice more for any nominations before closing the nominations. At any time before closing the nominations, a member who has been nominated may decline their nomination. At that time, I will call for a vote on the first nomination. If the first nomination has a majority vote in favor, they will be seated as the Chairman of the Board.

Once the Chair has been named, they will take over the duties of Chair and will conduct an election for the Vice-Chair position.

At this time, I would like to call for nominations for the Chair of the Planning Board:

- 1.
- 2.
- 3.
- 4.

I will make the 2<sup>nd</sup> call for nominations for the Chair. I will make the third and final call for nominations for Chair. Seeing none, I will declare the nominations for Chair of the Planning Board closed. All those in favor of \_\_\_\_\_ as Chair of the Planning Board for 2022, please say “Aye”. Any opposed? Ladies and Gentlemen, please welcome \_\_\_\_\_ as your Chair.

Mr./Mrs. Chairman, it is your meeting.

**DRAFT**

**Planning Board Meeting  
March 8, 2021  
Ragsdale Civic Center  
Minutes & General Account**

**Planning Board Members Present:** Sarah Glanville, Chair; Ed Stafford, Vice Chair; Dennis Sholl, Russ Walker, Richard Newbill (ETJ), Cara Arena (ETJ), & Sherrie Richmond (ETJ)

**Planning Board Members Absent:** Eddie Oakley & Steve Monroe (ETJ)

**Council Member Representative:** Rebecca Mann Rayborn

**Staff Members Present:** Dave Treme, Matthew Johnson, Katie Weiner, and Kenneth Clouser (Audio and Visual Technician)

**Visitors Present:** Jane Walker Payne

**Call to Order-** Johnson called the meeting to order at 6:00 pm.

**Election of Chair of the Planning Board-** Johnson presented an overview of the process to nominate and elect the Chair and Vice Chair of the Planning Board. He asked for nominations for Chair.

Arena nominated Sarah Glanville to serve as Chair of the Planning Board.

Johnson asked twice if there were any other nominations. There were none.

Arena made a motion to appoint Sarah Glanville to continue to serve as the Chair of the Planning Board. Sholl made a second to the motion. The motion passed by unanimous vote.

**Election of Vice Chair of the Planning Board-** Johnson asked for nominations for Vice Chair of the Planning Board.

Walker nominated Ed Stafford to serve as Vice Chair of the Planning Board.

Glanville asked twice if there were any other nominations. There were none.

Walker made a motion to appoint Stafford to continue to serve as Vice Chair of the Planning Board.

Newbill made a second to the motion. The motion passed by unanimous vote.

## **DRAFT**

**Roll Call-** Johnson took roll call as follows:

Sarah Glanville- Present  
Dennis Sholl- Present  
Eddie Oakley- Absent  
Ed Stafford- Present  
Russ Walker- Present  
Richard Newbill- Present  
Steve Monroe- Absent  
Cara Arena- Present  
Sherrie Richmond- Present

Rebecca Mann Rayborn- Present

**Consideration of approval of Planning Board Regular Meeting Schedule for 2021-** Stafford made a motion to approve the Planning Board regular meeting schedule for 2021 as presented. Richmond made a second to the motion. The motion passed by unanimous vote.

**Consideration of approval of minutes from the September 14, 2020 meeting and the September 28, 2020 meeting-** Newbill made a motion to approve the minutes from the September 14<sup>th</sup> and the September 28<sup>th</sup> meetings as presented. Walker made a second to the motion. The motion passed by unanimous vote.

**Public Hearing for Land Development Ordinance (LDO) Amendments-** Johnson stated he would not go through every change as there were not a lot of substantive changes and most are as required by recently adopted state statute 160-D. The most comprehensive change has been to signage section. He asked for comments from the Board.

### Board discussion:

Walker stated in the section 'conflict of interest', the word 'rescue' should be 'recuse'.

Glanville said she had discussed the federal change relating to signage with Johnson. As per a Supreme Court case, you cannot regulate based on messaging on the sign.

### **Public Hearing for Land Development Ordinance (LDO) Amendments**

Glanville opened the hearing at 6:20 pm.

1. Krisdena Reeser, at 2621 Glasshouse Road-

For months she has prolifically written staff representatives and volunteers about procedural and behavioral issues that plague the Town. She was deemed an outcast because she is not physically a resident of Jamestown, even though she has a Jamestown address. She was dismissed and ignored so since her letters were not effective, she is here in person to express her thoughts and concerns. Kudos to the Town for finally removing the protest petition from the LDO, which was repealed back in August 2015.

## **DRAFT**

The LDO has been revised three and soon to be four times since the statute was repealed. She wants to reaffirm what she has been saying all along that the LDO is garbage. She spent the last week reading it cover to cover and it is an absolute disgrace. She cannot believe the staff representatives and volunteers have continually approved the document as written which includes grammatical errors. It contains formatting issues, duplicate sections, sequencing issues and confusion of LDO and N.C. General Statute articles and sections and chapters and the list goes on and on. None of these corrections appear to be in the current draft of the LDO provided to you for this public hearing.

Based on the issues she found, she questions why the Town retains an attorney and she wonders if the Town ever consults the attorney on legal matters as she can guarantee the LDO has never been reviewed by an attorney or anyone with a legal background. The current state of the LDO would be laughed out of court – it is that bad. You have been hoodwinked by someone who continually touts twenty years of professional experience in land use development and planning – the same person responsible for updating the Town’s ordinances including the LDO.

She advises the Planning Board to not vote on the LDO changes until it is reviewed cover to cover by someone with a legal background and corrected into a sound viable legal document as the Town deserves better.

As there were no other speakers, Glanville closed the hearing at 6:28 pm.

Sholl asked if the Town Attorney had reviewed the LDO changes.  
Johnson replied that it has been reviewed by an attorney.

Richmond said that errors had been pointed out to be corrected by the updates and it was said that if there were significant errors, it would go through the process involved in updating the LDO again.

### **Vote on recommendation to Town Council**

Stafford made the motion to recommend to the Town Council approval of the LDO amendments as presented.

Newbill seconded the motion.

### **Roll call vote –** Weiner took the roll call vote as follows:

- Dennis Sholl- No
- Ed Stafford- Yes
- Russ Walker- Yes
- Richard Newbill- Yes
- Cara Arena- Yes
- Sherrie Richmond- Yes

The motion passed by a five to one vote in favor.



## DRAFT

### Adoption of the Consistency/Inconsistency Statement

Stafford read the consistency statement as follows:

“The Planning Board recommends that the proposed zoning amendment **be approved** based on the following:

1. *The proposed zoning amendment is consistent with the adopted comprehensive plan of the Town of Jamestown because:*
  - A. The Comprehensive Plan action recommendations in section 5.3 suggests that the Town continue to review and update ordinances on a regular basis.
2. *The proposed zoning amendment is reasonable.* The Planning Board considers the proposed zoning amendment to be reasonable because:
  - A. The request to update the ordinances stems directly from updates to state and federal laws which the Town is required to comply with.AND
3. *The proposed zoning amendment is in the public interest.* The Planning Board considers the proposed zoning amendment to be in the public interest because:
  - A. The Planning Board further finds that the proposed zoning amendment is in the public interest because it will update the local ordinances to be in compliance with state and federal laws and will allow for the Town to efficiently enforce its zoning code.AND
4. By approving this motion, the Board hereby also recommends that the Town Council also consider approval of the amendments as presented.

Adopted this the 8<sup>th</sup> day of March, 2021 by the Town of Jamestown Planning Board.”

Stafford made the motion to adopt the consistency statement as presented.

Arena seconded the motion.

The motion passed by a unanimous vote.

### Public Comment Period

None

Interim Town Manager Dave Treme introduced himself to the Board members saying he will be here until the Town Council hires a new manager.

### Adjournment

Newbill made the motion to adjourn at 6:45 pm.

Arena seconded the motion.

The motion passed by a unanimous vote.

**DRAFT**

Planning Board Meeting  
May 10, 2021  
Ragsdale Civic Center  
Minutes & General Account

**Planning Board Members Present:** Sarah Glanville, Chair: Robert Coons, Cara Arena (ETJ), Jane Walker Payne, Eddie Oakley, and Russ Walker

**Council Member representative:** Rebecca Mann Rayborn

**Staff Members Present:** Dave Treme, Interim Town Manager; Matt Johnson, Director of Planning; Anna Hawryluk, Planner; Katie Weiner, Town Clerk.

**Visitors Present:** Charlie Melvin, attorney for rezoning applicant

**Call to order:** Glanville called the meeting to order at 6 pm.

**Roll call** – Johnson called the roll as follows:

- Robert Coons - present
- Sarah Glanville - present
- Cara Arena (ETJ) - present
- Jane Walker Payne - present
- Eddie Oakley - present
- Russell Walker – joined the meeting at 6:20 pm

Rebecca Mann Rayborn – present

**Consideration of approval of minutes from the October 12, 2020 meeting** -Coon made a motion to approve the minutes from the October 12, 2020 meeting as presented. Arena made a second to the motion. The motion passed by a unanimous vote.

**Public Hearing for Rezoning Request-** Hawryluk stated the Town received a rezoning request from GTCC for parcels at

- I. 6014 W. Gate City Blvd (Parcel #220421) 1.65 +/- acres, From CIV to CZ-C
- II. 6016 W. Gate City Blvd (Parcel #220422) 1.7 +/- acres, From CIV to CZ-C

The request is to rezone from Civic (CIV) to CZ (Commercial). Parcels consist of 3.35 acres that are vacant and cleared. The parcels are adjacent to the GTCC Center for Advanced Manufacturing and the property owner wishes to rezone the parcels to identifying land uses for the CZ-C zone. The Town has investigated the parcels and determined they can be served by its Public Utilities for both water and sewer. The purpose is to match use that is consistent with the GTCC campus.

## DRAFT

### Applicant testimony

Charlie Melvin stated he is the attorney for the applicant and when the property was purchased eight years ago, it was subdivided out from a larger parcel with the view to, at the proper time, request rezoning to commercial. They worked to limit their use to the Town's already permitted uses. The applicant believes the uses are appropriate to the Town's permitted uses. GTCC's intent is to enter into long term leases. He requested the Planning Board recommend approval to the Town Council. Glanville asked if with the land lease a national chain restaurant with a very recognizable storefront was allowed and then went out of business and abandoned the building, what would happen. Would GTCC demolish the building?

Melvin responded that as this area is the entrance to GTCC's campus, the college would probably have an interest in demolishing the building as they would not want a derelict property there.

Glanville opened the Public Hearing for comments at 6:12 pm.

As no one signed up to comment, Glanville closed the hearing at 6:13 pm.

### Board review

Cara said she is concerned that there is no specific use listed for future development. Oakley stated he shares the same concern as Glanville and asked if we can control the design?

Glanville said she did not think we could control design if this rezoning to commercial is allowed.

Johnson said GTCC doesn't have a specific use in mind and is only using the Town's limited use list. The Town does not have a guide for the look of a building and that is not the request that is before the Board tonight. The Town does not have resources to make a business take down a building after vacating. If the property is in a leasehold and the property is vacated, it is up to property owner.

Payne questioned the access to the lots and asked if it is from GTCC. Johnson said there is controlled access using an existing driveway on the western most lot. It depends on the type of use and they have to work with the Department of Transportation on access. Staff recommends adoption of rezoning request as presented

### **Vote on Recommendation to Town Council**

Motion – Oakley made a motion to recommend approval of the rezoning request as presented to Town Council. Arena made a second to the motion.

**Roll call vote** – Johnson called the roll call vote as follows:

Robert Coon - yes  
Sarah Glanville - yes  
Cara Arena (ETJ) - yes  
Jane Walker Payne - yes  
Eddie Oakley - yes  
Russ Walker – yes

The motion was passed by a unanimous vote.

## DRAFT

### Adoption of Consistency/Inconsistency Statement-

Coon read the Consistency Statements as follows:

“The Planning Board recommends that the proposed zoning amendment **be approved** based on the following:

1. *The proposed zoning amendment, even though it is inconsistent, with the adopted comprehensive plan of the Town of Jamestown is adopted because:*
  - A. The change in conditions meets the development needs of the community.
  - B. It takes into account future growth and includes Jamestown in county wide economic development.
2. *The proposed zoning amendment is reasonable.* The Planning Board considers the proposed zoning amendment to be reasonable because:
  - A. Consistent with current zoning and usage with surrounding lots.

AND

3. *The proposed zoning amendment is in the public interest.* The Planning Board considers the proposed zoning amendment to be in the public interest because:
  - A. The proposed rezoning will allow for business development that meets a need for a larger growing population.
  - B. It also amends the Comprehensive Plan to reflect the approved zoning amendment.

AND

4. By approving this motion, the Board hereby also recommends that the Town Council also consider approval of the amendments as presented.

Adopted this the 10<sup>th</sup> day of May, 2021 by the Town of Jamestown Planning Board.”

Arena made a motion to adopt the Consistency Statement as read. Payne seconded the motion. The motion passed by a unanimous vote.

**Public comment** – none

### Adjournment

Walker made a motion to adjourn at 632 pm. Oakley seconded the motion. The motion was passed by a unanimous vote.

**DRAFT**

**Joint Meeting of the Town Council and the Planning Board  
August 11, 2021  
3:00 pm in the Civic Center  
Minutes & General Account**

**Council Members Present:** Mayor Montgomery, Council Members Wolfe, Rayborn, Capes, & Straughn

**Planning Board Members Present:** Sarah Glanville, Chair; Ed Stafford, Vice Chair; Dennis Sholl, Eddie Oakley, Russ Walker, Donald Dale (ETJ), Robert Coon (ETJ), Sherrie Richmond (ETJ), Cara Arena (ETJ), Kerry Miller (Alt.), Jane Walker Payne (Alt.), Peggy Levi (ETJ Alt.)

**Staff Members Present:** Dave Treme, Matthew Johnson, Anna Hawryluk, & Katie Weiner

**Visitors Present:** Vagn Hansen, Jason Epley, Tom Terrell, Seth Harry, Elizabeth Ward, Calvin Atkins, Courtney Gonzalez, Ryan Moats, Eric Wall, & Carol Brooks

**Call to Order for the Town Council-** Mayor Montgomery called the meeting to order for the Town Council.

Weiner took roll call for Council as follows:

Council Member Wolfe- Present  
Council Member Capes- Present  
Mayor Montgomery- Present  
Council Member Straughn- Present  
Council Member Rayborn- Present

Weiner stated that a quorum was present.

**Call to Order for the Planning Board-** Glanville called the meeting to order for the Planning Board.

Weiner took roll call for the Planning Board as follows:

Sarah Glanville- Present  
Ed Stafford- Present  
Dennis Sholl- Present  
Eddie Oakley- Present  
Russ Walker- Present  
Donald Dale- Present  
Robert Coon- Present  
Sherrie Richmond- Present  
Cara Arena- Absent

Kerry Miller (Alt.)- Present  
Jane Walker Payne (Alt.)- Present  
Jason Spangler (Alt)- Absent  
Peggy Levi (ETJ Alt.)- Present

**DRAFT**

Weiner stated that a quorum was present.

**Introduction and Welcome to the Joint Meeting-** Treme thanked all the Council and Planning Board Members for attending the meeting. Treme said that D. R. Horton had purchased the Johnson property. He added that staff would like to use the joint meeting as an opportunity to provide information on how the Town Council was going to approach the public engagement process for any future rezoning request that may be submitted for the property. Treme also stated that Vagn Hansen with Benchmark Planning was going to present an overview of some of the recent 160D statute updates and general tips for effective board meetings.

Treme asked everyone to introduce themselves. Council and Planning Board Members introduced themselves to the group. Treme thanked everyone for their service to the community.

Hansen came forward. He introduced himself and said that Benchmark Planning had been involved in several different projects with the Town of Jamestown. He noted that Benchmark was currently working on an update to the Town's Comprehensive Plan. He added that Treme had approached him about providing some information to the boards regarding the changes that had occurred at the state level while also reviewing some more general topics that may be beneficial.

**Overview of Updates to Conflicts of Interest-** Hansen stated that the 160D legislative updates had impacted the rules surrounding conflicts of interest. He noted that the conflict of interest provisions applied to both governing and appointed boards. He stated that governing or advisory board members were not allowed to participate in any legislative decision regarding development regulation if the outcome was likely to have a direct, substantial, and readily identifiable financial impact on the member. He added that having a close familial, business, or other associational relationship with the landowner of a property subject to a rezoning petition or the applicant for a text amendment would also be considered a conflict of interest. Hansen explained that members should recuse themselves if a conflict exists.

Hansen presented several scenarios in which there may be a financial or personal conflict of interest. He asked the members to identify which scenarios were problematic. The Council and Planning Board Members discussed the examples with Hansen.

Hansen also briefly spoke about the voting requirements for quasi-judicial decisions. He highlighted that board members must be impartial decision makers. He added that they could not have a fixed opinion about the matter being discussed prior to the hearing. He noted that all members must disclose any ex parte communications that they have had before the hearing begins. Hansen stated that anyone that had close familial, business, or other associational relationships with an affected person or a financial interest in the outcome of the matter could not participate.

He provided several scenarios to the board members about potential conflicts of interest. The members discussed the situations with Hansen.

**Tips for Effective Board Meetings-** Hansen provided the Council and Planning Board members with an overview of parliamentary procedure. He explained that the procedures established order in the meetings while also ensuring that the business of the board was conducted efficiently. He added that they provided a structure that encouraged organized discussion and equal opportunity to express differing opinions.

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Hansen spoke about the proper ways to make and amend a motion. He also gave the board members several tips on how to streamline the public comment period process. He noted the importance of maintaining order during the meetings, being prepared to discuss items on the agenda, and ensuring that the agenda be followed after its adoption.

**Procedures for Land Use Hearings-** Hansen provided an overview of legislative and quasi-judicial hearings and their procedures. He stated that the primary types of legislative hearings were for zoning map and ordinance text amendments. He noted that both types of amendments required advisory hearings, recommendations by the Planning Board, and a public hearing held by the Town Council. Hansen added that there were no restrictions on communications with applicants prior to legislative hearings. He said that all interested parties were allowed to speak at the public hearings and that decisions by the boards should be made within a reasonable timeframe. He presented details on the requirements of the board to provide a consistency statement for proposed amendments and their alignment with the Town’s adopted Comprehensive Plan.

Hansen noted that quasi-judicial hearings were based on evidence that placed the burden of proof on the applicant to demonstrate that their proposal met the standards of the Town’s ordinance and any required findings. He added that the hearings were conducted like a court proceeding. He stated that speakers provided sworn testimony and were supposed to present “substantial, material, and competent” evidence on matters before the board. He said that all evidence had to be considered when the board made a decision. Hansen said that written findings of fact were required and that specific evidence entered into the record should be cited to demonstrate compliance. He noted that the hearings could be continued if the board required additional evidence in order to make a decision.

The board members discussed the details of the procedures for the two types of hearings with Hansen.

Arena arrived at 4:54 pm.

**Introduction to the Town of Jamestown’s Land Use Attorney-** Mayor Montgomery introduced Tom Terrell with Fox Rothschild to the board members. She noted that he had extensive experience in representing clients from a wide-range of industries in land use matters. She added that he was currently serving as the Town’s land use attorney.

Terrell came forward and addressed the Council and Planning Board. He thanked Treme and the Council for allowing him to represent the Town. He said that he was impressed that the leaders of the Town were being proactive as they prepared for the significant decisions that would need to be made regarding the Johnson property in the near future.

Terrell explained that the role of the Planning Board was not to design a development site when they were considering a substantial rezoning request. He added that their purpose was to make determinations about a request based on the Town’s adopted Comprehensive Plan and vision for the future. He stated that they would then provide a recommendation to the Town Council about whether a request should be approved or denied based on their consideration. He noted that if the process worked as it was intended that the outcome would be defensible in every aspect.

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Terrell said that a development agreement would be crafted and implemented if a rezoning request were approved. He added that he and the developer’s attorney would work together to draft an agreement. He noted that it would then need to be approved by the Town Council.

He praised the Town Manager and Council for hiring a planning consultant to assist with the board’s consideration of the Johnson property rezoning. He advised the Planning Board to heed the advice given to them by Seth Harry. He also encouraged them not to confuse density of the development with quality. Terrell added that D.R. Horton, owner of the Johnson Property, had been willing to step out of their comfort zone to work with the Town to create a development that everyone could be proud of at the end of the process.

Mayor Montgomery called for a five minute recess.  
Mayor Montgomery called the meeting back to order.

**Introduction to the Town of Jamestown’s Community Planner-** Mayor Montgomery introduced Seth Harry to the board members. She stated that he was the president and founder of Seth Harry & Associates Architects and Planners. She added that he had over thirty-five years of professional experience in community planning throughout the United States. She said that his team also had extensive experience in community outreach and public input.

Harry came forward and addressed the board members. He presented information on the usual process that his team used to engage the public about potential developments. Harry presented examples of other sites that he and his team had worked on for other municipalities.

Board members spoke about the best ways to inform the public about the upcoming public engagement sessions with Harry.

They also discussed the details of the schedule for the sessions and potential options for virtual participation with Harry.

Johnson came forward and stated that the Planning Board would not be able to meet on their regular meeting date in September. He requested that they set the date for a special meeting on September 20<sup>th</sup> at 6:00 pm.

Dale made a motion to set the date for a special Planning Board meeting on September 20<sup>th</sup> at 6:00 pm in the Civic Center at Town Hall. Arena made a second to the motion. The motion passed by unanimous vote.

**Adjournment of the Town Council-** Capes made a motion to adjourn. Straughn made a second to the motion. The motion passed by unanimous vote.

**Adjournment of the Planning Board-** Walker made a motion to adjourn. Coon made a second to the motion. The motion passed by unanimous vote.

The meeting ended at 6:07 pm.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor



**DRAFT**

Town of Jamestown  
Planning Board  
September 20, 2021  
6:00 pm in the Civic Center  
Minutes & General Account

**Planning Board Members Present:** Sarah Glanville, Chair: Cara Arena, Jane Walker Payne, Ed Stafford, Donald Dale, Sherry Richmond, Peggy Levi and Russ Walker

**Council Member representative:** Rebecca Mann Rayborn

**Staff Members Present:** Dave Treme, Interim Town Manager; Matt Johnson, Director of Planning; Katie Weiner, Town Clerk.

**Visitors Present:** Charlie Melvin, attorney for rezoning applicant

**Call to order:** Glanville called the meeting to order at 6 pm.

**Roll call** – Johnson called the roll as follows:

Sarah Glanville – present  
Dennis Sholl – absent  
Ed Stafford – present  
Donald Dale – present  
Robert Coons - absent  
Cara Arena – present  
Sherry Richmond - present  
Jane Walker Payne - present  
Eddie Oakley - absent  
Russell Walker –present  
Peggy Levi - present

Rebecca Mann Rayborn – present

**Approval of minutes from the November 9, 2020 and November 23, 2020 meetings-** Walker made a motion to approve the minutes from the November 9<sup>th</sup> and 23<sup>rd</sup>, 2020 meeting. Stafford made a second to the motion. The motion was passed by a unanimous vote.

**Public Hearing for request for recommendation regarding the adoption of the 2021 Comprehensive Plan-** Matthew Johnson, Assistant Town Manager/Director of Planning, stated Chapter 160D requires municipalities to adopt a comprehensive plan or land use plan by July 1, 2022. Once adopted, it must be reasonably maintained per statute. Engagement with the community is required. A steering committee was selected and the Town hired a consultant, Benchmark Planning, to help with the update process. Because of the Covid 19 pandemic, the committee and consultant met over 15 times to gather information conducting meetings via zoom and streaming them on the Town’s YouTube channel along with a survey. The document for consideration tonight is the culmination of over two years of work.

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Staff recommends the board recommend adoption of the updated 2021 Comprehensive Plan to the Town Council.

Benchmark Planning representative Vagn Hansen gave an overview of the plan.

Chairperson Glanville opened the Public Hearing at 6:27 pm.

1. Robert Frederick, 500 Windwood Drive, stated he thanks the committee members for volunteering their time. He had taken the guiding principles from the plan particularly in number six regarding convenient access for everyone to a wide variety of parks, open spaces and recreational opportunities and number eleven regarding protecting the quality and health of the natural environment. In the land use map and description of parks, it appears this is only included because these areas are already designated as parks and have low development potential. He is concerned that the future growth plan does not include parks particularly along the commercial corridor. The area is intended to promote higher density multi-family developments. Do we really want to plan for another Wendover Avenue along our Town's border? Won't that put undue pressure on the Town's current businesses? Let it be a bypass and not a stop and shop area. Thank you for your consideration.
2. Carol Brooks, Jamestown News, said she does not normally speak at these meetings, but she had a complaint about the pages that only have a very small town logo on them. Please put the logo on the next page so as not to waste paper.

As there were no others to speak, Chairperson Glanville closed the Public Hearing at 6:32 pm.

**Vote on Recommendation to Town Council** – Member Stafford made a motion to recommend adoption of the 2021 Comprehensive Plan to the Town Council. Member Arena made a second to the motion.

**Roll call vote** – Town Clerk Weiner took the roll call vote as follows:

Sarah Glanville – yes  
Ed Stafford – yes  
Donald Dale – yes  
Cara Arena – yes  
Sherry Richmond - yes  
Jane Walker Payne - yes  
Russell Walker –yes  
Peggy Levi – yes

The motion was passed by a unanimous vote.

**Public Hearing for request for recommendation regarding several updates to the Land Development Ordinance** - Assistant Town Manager/Director of Planning stated the majority of updates are minor and have to do with cleanup of language and added a minimum housing code. The Town contracted with Alliance Code Enforcement (ACE) who recommended the current code be updated to include how the Town deals with non-residential code violations, abatement code and sign ordinances. Because Anna

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Hawyluk, Town Planner, and the ACE representative are not able to attend tonight's meeting, staff recommends opening the Public Hearing and continuing it without advertisement to the regularly scheduled November 8, 2021 meeting.

Member Payne made a motion to continue the Public Hearing to the November 8, 2021 meeting without further advertisement. Member Richmond made a second to the motion. The motion passed by a unanimous vote.

**Updates to the Planning Board's Rules of Procedures** - Matthew Johnson, Assistant Town Manager/Planning Director, stated the Rules of Procedure need to be updated to comply with statute 160D related to conflicts of interest. Updates were discussed in a joint meeting with Council in August. There is a change to the time and location of the meetings from 6:30 pm to 6:00 pm and from the Town Hall to 301 E. Main Street or Town Hall. There are also some minor changes for clarification and grammar correction. Staff recommendations approval of changes as presented.

### **Vote on updates to Planning Board's Rules of Procedures**

Member Dale made a motion to approve the changes to the Planning Board Rules of Procedure, as presented. Member Walker made a second to the motion. The motion was passed by a unanimous vote.

**Consideration of date for next regularly scheduled meeting-** Assistant Town Manager/Director of Planning, requested the board set its next regular meeting to November 8, 2021.

### **Vote on consideration for next regularly scheduled meeting**

Member Levi made a motion to set the next meeting for November 8, 2021. Member Dale made a motion to the second. The motion was passed by a unanimous vote.

**Public Comment Period** - none

### **Adjournment**

Member Richmond made a motion to adjourn at 6:43 pm. Member Levi made a second to the motion. The motion passed by a unanimous vote.

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**Planning Board Meeting  
November 8, 2021  
Civic Center  
Minutes and General Account**

**Planning Board Members Present:** Sarah Glanville, Chair; Ed Stafford, Vice Chair; Dennis Sholl, Jane Walker Payne, Russ Walker, Jr., Donald Dale, Jr., (ETJ) Robert Coon (ETJ), Sherrie Richmond (ETJ), Cara Arena (ETJ).

**Town Council Representative Present:** Rebecca Mann Rayborn

**Staff Present:** Dave Treme, Town Manager; Matthew Johnson, Planning Director; Anna Hawryluk, Planner; Katie Weiner, Town Clerk; Nancy Avery, Interim Town Clerk

**Visitors Present:** Shanna Moore, Elizabeth Ward, Eddie Oakley, Tom Tervo, Brad Yoder, Tim Hess-Timmons, Sandra Janssen, James Lutzweiler, Bob Dischinger, Ryan Moats, Peggy Levi, Norma Marshall, Carol Brooks, Andrew White, Lynn Duffy, Diane Nulty.

**Call to order** - Glanville called the meeting to order at 6:00 pm.

**Roll call** - Johnson took roll call as follows:

Sarah Glanville - Present  
Ed Stanford - Present  
Dennis Sholl - Present  
Jane Walker Payne - Present  
Russ Walker - Present  
Donald Dale - Present  
Robert Coon. Present  
Sherrie Richmond - Present  
Cara Arena - Present

Council Member Rayborn - Present

There was a quorum present.

**Public Hearing request for recommendation regarding several updates to the Land Development Ordinance**

Glanville asked Hawryluk to present the updates.

Hawryluk stated there are formatting changes included such as all documents are now a portrait-layout whereas before there was a mixture of landscape and portrait. Also pictures for the pole sign were updated to be easier to understand. The subdivision entrance section was removed as it was addressed in another section which was contradicting regarding height of monument signs.

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Richmond said she has questions on each page, and is mainly concerned about timeframes on signs as it is not delineated. Some things are mixed or blended too much so that you have to read carefully to know whether it applies to residential or not. The section on flags is an example. Pole signs need to be looked at as to what is appropriate for future architectural design.

Hawryluk responded that said timeframes are covered in the temporary signs section and she is happy to look at the other areas for this. The Town might need to need to hire someone to help with these concerns. She also said she could review with Member Richmond separately.

Hawryluk stated the other article is a nuisance abatement and minimum housing code. The Town previously did not have this. It was written by Brandon Emory with Alliance Code Enforcement (ACE).

Emory explained his agency was tasked with looking at the ordinances and they are working with fourteen other towns. Minimum housing code allows them to work on in-house items without bringing in the Building Inspector. There were some crossovers between residential and commercial areas. The primary purpose of the updates is housekeeping and required North Carolina General Statute 160D changes. This article allows the town to properly take enforcement action. They picked up fifty temporary signs recently. He said he is glad to answer any questions about signs.

Glanville opened the Public Hearing at 6:10 pm.

There were no comments.

Glanville closed the Public Hearing at 6:11 pm.

Board Discussion:

Richmond said she has editing items she will give to Hawryluk.

### **Vote on recommendation to Town Council**

Stafford made a motion to approve the LDO updates as presented. Arena made a second to the motion. Weiner took a roll call vote as follows:

Glanville- aye

Stanford - aye

Sholl - aye

Payne - aye

Walker- aye

Dale - aye

Arena - aye

Coon - aye

Richmond - aye

The motion passed by a unanimous vote.

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### **Adoption of Statement of Consistency**

Stafford made a motion that the proposed zoning text amendment be approved based on the following:

1. The proposed zoning text amendment is consistent with the adopted Comprehensive Plan of the Town of Jamestown. The Planning Board further finds that the proposed zoning text amendment is consistent with the Comprehensive Plan because: Periodic updates to the zoning texts are necessary based upon changing conditions, regulations, and laws. Updates establish Town compliance with regulating bodies and ensure that guiding documents are accurately operational for each of the current goals of the Comprehensive Land Development Plan.
2. The proposed zoning test amendment is reasonable. The Planning Board considers the proposed zoning text amendment to be reasonable because:
  - A. The report of the Town staff finding the proposed zoning text amendment to be reasonable is adopted by reference.
  - B. The Planning Board further finds that the proposed zoning text amendment is reasonable because: The text edits correct any previous errors and add clarifying language and formatting to make the documents easier to interpret and apply.

AND

3. The proposed zoning text amendment is in the public interest. The Planning Board considers the proposed zoning text amendment to be in the public interest because:
  - A. The report of the Town staff finding the proposed zoning text amendment to be in the public interest is adopted by reference.
  - B. The Planning Board further finds that the proposed zoning text amendment is in the public interest because: Continuous improvement to the guiding documents promotes consistent and equitable application of the regulations that promote the general health, safety, and welfare of the people of Jamestown.

Walker made a motion to second the motion.

The motion passed by unanimous vote.

### **Public Hearing for rezoning request for 2221 Guilford College Road, 5300 Mackay Road, 2207 Guilford College Road, and 5303 Mackay Road from Agricultural (AG) to Planned Unit Development (PUD)**

Johnson introduced Tom Terrell, a land use attorney hired by the Town. Terrell stated the matter coming before the Board is neither routine nor inconsequential. He said the concept of the Planning Board began to appear in this country at the turn of the century and its roles and authority may vary except in the state of North Carolina. The state follows Dillon's Law which means local governments do not have the power of home rule. State statute says the town can adopt its own meeting dates and elect its officers, but the purpose is to recommend and/or provide guidance only to the Town Council. The Planning Board is the keeper of the Comprehensive Plan. By statute, any change starts with you, the Planning Board. Before any zoning change may be made it must come before the Planning Board and the Board must state if it has general consistency with plan. If the Planning Board allows it, it is the first place a citizen gets a say in the process. The Town held a public process explaining this rezoning request and he

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applauds them for that. 'Review and comment' are your guiding words. You have the power to recommend, but you do not have the power to control.

Glanville requested that Johnson present opening remarks on the rezoning request.

Johnson explained that the rezoning request is for 467 acres formally known as the Johnson property which is now owned by D. R. Horton. It is logical to believe this property would be developed in the future as it is situated in a high growth area. The Town defined its future areas of growth in an Extra Territorial Jurisdiction (ETJ) area and this property is within the ETJ. The Land Use Plan (LUP) completed in 2007 also referenced this property as future residential development. The ETJ boundary was extended in 2008. This move was strategically done to be in position for future growth.

The proposed rezoning is from Agricultural (AG) to Planned Unit Development (PUD) for 467 +/- acres identified as:

2221 Guilford College Road (Parcel#159144) - approximately 27.89 ac +/-

5300 Mackey Road (Parcel # 159105) - approximately 30.70 ac +/-

2207 Guilford College Road (Parcel # 159106 - approximately 384.49 ac +/-

5303 Mackay Road (Parcel # 158765) - approximately 0.6 ac +/-

The referenced property is currently mostly vacant and primarily consists of forested and pasture land. The property has been reviewed by the Town's Public Services Department and water and sewer access is available on or near the property. The reason for the request is to develop a high quality residential development which is not a use permitted in Agricultural zoning.

In mid - February of 2020, a request was brought to the Town by Diamondback and after consideration the Planning Board recommended denial of the request.

The Town Council engaged land use attorney Tom Terrell for assistance and determined that the applicant was not being reasonable in the request and denied the application. The developer petitioned the General Assembly to remove ETJ from Jamestown. The Town fought back and won.

Council and staff recognized the importance of getting the development of this area right and entered into a contract with Mr. Harry in September of 2021 to conduct public information workshops to work towards achieving a development that is sustainable. A site plan was developed as a result of this process. D.R. Horton watched and listened to this process and became aware of the site plan. Horton has developed a plan that matches the Town's proposed site plan closely.

As part of the process, the Town Council and staff are recommending a Development Agreement to collaboratively address development issues during the extended period of time of this development.

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The Town is reviewing the application in relation to adequate services to be provided by the Town for garbage removal, water and sewer services, and so on.

The decision before this Board tonight is to determine whether the rezoning request from AG to PUD is consistent with the Town's Comprehensive Plan.

Staff requests favorable recommendation of this rezoning request with a Development Agreement to be adopted by the Town and the developer.

Terrell said state law allows Development Agreements to deal with large scale, long term, multi-phase projects. It creates a figurative table where everyone with a voice in the process can sit and talk to flush out details once the Council has approved a project. The PUD will have its own development standards. The Development Agreement enables the Town to work out the path by which standards are implemented and what happens if not implemented. Most importantly, it creates a trigger point that allows timeframe and conditions to be imposed. It helps the Town to budget capital outlays that will occur because of the project. It specifies things such as who provides utility connections, who oversees the process, and how they are served. By statute, the Development Agreement is made public and must be adopted by ordinance and by Public Hearing. It must be adopted separately from the rezoning request. It will keep the project moving forward to enhance and protect the Town.

Arena asked if the Development Agreement is a living, breathing document for just this project or for future use.

Terrell answered it can last for whatever reasonable circumstances of the project allows. It can be modified, but a major modification must come back to Council for approval.

Glanville asked if the document outlines actions that may be taken should either party not follow through on what is agreed on.

Terrell replied that is correct.

Johnson introduced Seth Harry of Seth Harry and Associates. The Town Council hired Mr. Harry to conduct community input sessions and work with Council throughout this process.

Mr. Harry stated that in anticipation of preparing for the next phase of this project, he is in the process of outlining some tools and techniques for translating input received from the public including design standards. This will give the ability to confirm whether or not those preferences from the workshop are concrete and defined in the document.

Arena asked if there is a chance those principles from the engagement sessions could be left out of the Development Agreement.

Harry said yes, it is possible; but it would be at the detriment of the applicant.

Richmond asked who will make sure those principals are in the Development Agreement.

Terrell answered that the Town staff would work on that.



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Coon asked if we do not know the contents of the Development Agreement, which is the definition of whether it matches the Comprehensive Plan, how can the Planning Board recommend and or state that it is consistent or not with the Comprehensive Plan?

Terrell stated that none of the details of the principles in the Development Agreement are in the Comprehensive Plan.

Arena asked if there is anything saying that the developer is going to do with they say they will. Terrell replied there are two stopping points; one with the Town Council as first defense from preventing the developer from going off the rails and two with the residents and voters that vote for Council members. There is a level of trust with the applicant who is a professional with its reputation on the line.

Glanville says she understands the question they are voting on is not that the ultimate development is consistent with the Comprehensive Plan, but whether the tool of the PUD is consistent with the Comprehensive Plan. Is that correct?

Terrell said yes, that is correct.

Glanville requested that the applicant's representative, attorney Mark Isaacson, to present his application.

Isaacson stated he is a private attorney representing the applicant. You have a real professional in Attorney Terrell working for you. Managers from D.R. Horton and two civil engineers are present tonight working as a team to bring this request to the Town. Horton realizes the need to work with the Town on this project to move forward. The ordinance allows flexibility in developing such a large property as Johnson Farm. The PUD and Development Agreement that Horton has agreed to enter into provides flexibility for this project development. Horton's expectation is for a fairly conventional detached housing and attached housing along with lock and leave housing that are a little closer together than most housing. Housing is expected to be reasonably affordable high quality housing catering to younger adults. Amenities on property would be light retail such as coffee shop catering to the residents. Amenities will ensure compatibility with surrounding developments. We anticipate having a community center with historical artifacts from the Johnson family. The LDO defines A PUD as intended to accommodate a range of uses and to encourage new development while preserving historic development patterns. We have worked for months with town staff to comply with ordinance. We developed a bubble map that overlays well with the map developed from the planning process. We are starting a long, long process on this development. The Planning Board is the first step of many, many steps. Through preliminary engineering, we have determined where certain uses can go on the property. There are a lot of streams on the property and they have to be respected. There are a lot of topographic issues on the property that have to be worked with. Access points need to be determined and this is a big variable. We have to answer to other agencies also such as the U.S. Army Corp of Engineers (USACE), Department of Transportation (DOT), Department of Environmental Quality (DEQ), and Guilford County. It may take over a year to get through the process of a final plan of what goes where, so we are not coming before

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you presenting architectural designs as we are a long way away from that. Horton participated in the public charrette process and listened and learned. It is virtually impossible to provide a density number this early in the process based on variables mentioned above, but Horton does commit that density will be consistent to that in the Comprehensive Plan.

Arena said that the planned uses for the development areas were great but the alternate plan use in the land use is great but the alternate use were concerning because eight out of ten areas could become commercial.

Isaacson said we would want to put most amenities near access points which have not been submitted. Horton is not a commercial developer but residential and the property was bought with the vision of residential use.

Richmond said eight out of ten commercial area uses were frightening. Hawryluk explained that this gives the possibility for commercial use, but doesn't require it.

Isaacson responded that by the time we get through Council review and approval, those uses should be better planned.

Glanville said the PUD designation is not specific but allows light commercial use.

Isaacson responded that the word is 'compatible'. Commercial use has to be compatible with residential use. Commercial uses would only be to serve community residents.

Glanville opened the Public Hearing at 7:33 pm.

1. Tom Tervo, 2 Longhorn Court –

Tervo stated he attended meetings with Seth (Hardy) and he is all for the PUD. He thinks it gives the Town as much control as possible, but he is not sure safety was adequately addressed in the plans. He thinks safety is not addressed enough in streets and he recommends roundabout and wide streets. Fewer commercial properties make sense to him so as not to compete with the existing Town commercial district. He did not hear much about recreation opportunities and prefers a community swimming pool. Housing density was touched on and he believes that there is an environmental defense for houses closer together since not as much green space is used. He provided written comments to the Town Clerk which would be distributed to the Planning Board Members after the meeting.

2. Norma Marshall, 21 Gatehouse Lane –

Marshall said she is right by Mackay Road near the bridge. She has been lucky to have Johnson farm land as her back yard, so this is sad for her. Her concerns are loss of acres of forest, soil erosion, loss of natural beauty, and loss of trees which leads to water runoff and pollution that requires treatment. She thinks they should perform land management before development to preserve trees, and research use of organic matter to help prevent run off. If PUD contributes to flooding and we have to purchase FEMA insurance, will the developer helps us with cost? Trees filter pollutants and we need a diversity. The wildlife habitat will be endangered. Will the County Commissioners provide an analysis? She provided the Town Clerk with her written comments and asked that they be distributed to the Planning Board.

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As there were no more persons signed up to speak, Glanville closed the Public Hearing at 7:41 pm.

Deliberations:

Coon said under the LDO there are two items the Planning Board needs to consider that he does not believe have been addressed. Density is one of those requirements and signage is the other. Terrell said one of two things can be done. The Board can ask Mr. Isaacson to come back and if that is not done, it will resort to what the ordinance requires. The LDO does not say how density is to be presented. He does not interpret that to mean an actual number.

Arena stated the PUD is consistent and appropriate. Her biggest concern is the timeline for consideration for ETJ members to have a voice. This is the opportunity for ETJ residents to have a bigger voice but they are not part of the Development Agreement process. They can email Council members, but as part of ETJ they cannot vote for the Council members. She does not think it is a good decision that the Planning Board cannot be a part of the Development Agreement process. That should be considered.

Coon asked who is the Planning Board member on the Town's Technical Review Committee (TRC) that is involved in the Development Agreement process.

Glanville said she used to attend the TRC meetings in years past when the Planning Board would vote one way and Town Council another causing confusion. The state's School of Government (SOG) recommends having a liaison from the Town Council to attend Planning Board meetings and as liaison for TRC meetings.

Terrell said by ordinance the Planning Board has no vote on the TRC. The purpose of the TRC is to ensure compliance with ordinance and laws. The Planning Board is not influential, but has a watch and listen role.

Glanville says Arena brings up a good point in that the area of town most affected has the least representation. Is there a way to address that?

Terrell stated he does not think the ETJ area is the most impacted. They are closer in vicinity, but this type of project has a much broader impact than to just those living across the street. Statute does not give the Planning Board any power or allow for input on development. Certainly written or other comments will be considered.

Coon asked what is the lead time for publication of the Development Agreement.

Terrell responded thirty days prior to the Public Hearing.

Arena said the statute does not state that the Planning Board cannot, does it?

Terrell said that statute must explicitly give that power to the Planning Board and it does not.

Richmond said someone once told her perception is reality. The ETJ residents' perception to some people is that they no longer have a voice because there is no ETJ representative on the Town Council. The largest and most important development will occur with no ETJ input. The

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average citizen in the major development in the ETJ is perceiving he or she is being left out. Once this leaves the Planning Board, there is no longer a voice for ETJ residents. She wants the perception to shift so that ETJ residents will be heard. Could the Development Agreement draft be brought before the Planning Board for review and comment?

Terrell responded that this is harder to do on a Development Agreement with one key stakeholder which is Horton. As to how the public is looking at it, once there is template that has a lot of meat on the bone, he has no problem with that being made available to the public. It is a possibility to bring the draft to the Planning Board, but he is hesitant to commit to that because of statute prohibition. He wants everything to be legally defensible.

Isaacson said that Horton would like to invite ETJ members for another listening session because they think they are impacted and they would like to hear the concerns. To the extent that we are able to legally able to do so, we would like to work that out.

Richmond said that is a good idea that will help with the current polarization between the two areas.

Glanville said she thinks a lot of concerns of the ETJ residents are the same as Jamestown proper residents, but there are unique concerns such as street lighting that could impact nearby homes in the ETJ.

Coon said he was not part of the Planning Board with the Diamondback application and commended the Board and staff on this process. It was much more open and collaborative and he appreciates Horton's offer to allow ETJ residents to participate in the Development Agreement process.

### **Vote on recommendation to Town Council**

Stafford made a motion to recommend approval of the rezoning application to the Town Council, subject to (i) the site-specific master development plan submitted to the Planning Board shall be approved by Town Council; (ii) a Development Agreement shall be approved by Town Council; (iii) the permitted residential density will be as determined by Town Council as part of the site-specific master development plan and subject to a Development Agreement; and (iv) any variance in signage from the LDO standards shall be approved by Town Council and subject to the Development Agreement.

Richmond made a second to the motion.

Weiner took a roll call vote as follows:

Glanville- aye

Stanford - aye

Sholl - aye

Payne - aye

Walker- aye

Dale - aye

Arena - aye

Coon - aye

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Richmond - aye

The motion passed by a unanimous vote.

### **Adoption of Statement of Consistency**

Stafford made a motion that the proposed zoning amendment be approved based on the following:

1. The proposed zoning amendment is consistent with the adopted Comprehensive Plan of the Town of Jamestown. The Planning Board further finds that the proposed zoning amendment is consistent with the Comprehensive Plan because: The 2020 Comprehensive Land Development Plan adopted “planned Unit Development” (PUD) as a zoning tool available to use on large parcels of land to promote and encourage pedestrian friendly, traditional neighborhood land-use patterns and development.
2. The proposed zoning amendment is reasonable. The Planning Board considers the proposed zoning amendment to be reasonable because: The report of the Town staff finding the proposed zoning amendment to be reasonable is adopted by reference. The Planning Board further finds that the proposed zoning amendment is reasonable because: The property in question is part of Jamestown’s “preliminary growth area” due to its size and location and the PUD zoning designation allows for regulated growth that meets Jamestown’s goals and needs.

AND

3. The proposed zoning amendment is in the public interest. The Planning Board considers the proposed zoning amendment to be in the public interest because:
  - A. The report of the Town staff finding the proposed zoning amendment to be in the public interest is adopted by reference.
  - B. The Planning Board further finds that the proposed zoning amendment is in the public interest because: The PUD zoning designation provides for oversight and regulation by Town staff and elected officials to ensure any new development meets the goals and guiding principles of the Comprehensive Land Development Plan including, but not limited to, making smart growth decisions that maintain and enhance Jamestown’s special community characteristics, preserving Jamestown’s natural and historic resources, and keeping Jamestown a welcoming and inclusive community.

Coon made a second to the motion.

The motion passed by unanimous vote.

### **Consideration of date for next regularly scheduled meeting**

Johnson informed the Board that it will convene December 13th as the Board of Adjustment.

### **Public Comment**

There were no public comments.

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### **Adjournment**

Walker made a motion to adjourn at 8:10 pm.

Sholl made a second to the motion.

The motion passed by unanimous vote.

The meeting ended at 8:10 pm

## **ARTICLE 17 SIGN REGULATIONS**

### **17.1 Title**

This Article shall be known and may be cited as the “Town of Jamestown Sign Regulations.”

### **17.2 Applicability and Purpose**

This Article applies to all signage erected in the Town of Jamestown and its extraterritorial jurisdiction. The purpose of this ordinance is to ensure the installation of safe and effective signage that promotes both business activity and the aesthetic character of the Town and its extraterritorial jurisdiction, as well as communicating essential information to the public. The following statements elaborate on this purpose:

- To provide opportunities for neighborhoods and commercial endeavors to be identified in an effective and equitable fashion.
- To promote public safety by reducing hazards associated with distracting or excessive signage.
- To establish and promote enhanced community character through signage that is reflective of the historic nature of the Town and its scale of development.
- To promote the integration of signage with the architectural characteristics and aesthetic quality of the Town’s development.
- To provide for flexibility in amount, type and scale of signage depending on the context of the development and the surrounding area.
- To facilitate efficient, thorough, consistent and effective enforcement of the sign regulations.

### **17.3 Definitions**

Please see definitions in Article 3 of this Ordinance.

### **17.4 Applicability**

Except as specifically exempted in this ordinance, no sign shall be erected, altered or displayed without a sign permit issued by the Town of Jamestown confirming compliance with the provisions of this ordinance. Signs made nonconforming by this ordinance shall be grandfathered until altered, abandoned, relocated, or removed.

#### 17.4.1 Substitution of Messages

The sign regulations of this article are not intended to favor commercial speech constitutionally protected political or noncommercial speech. A sign containing a noncommercial message may be substituted for any sign containing a commercial message that is allowed by the regulations of this article.

### **17.5 Prohibited Signs and Sign Characteristics**

The following signs are specifically prohibited by this ordinance in all zoning districts.

- Snipe/yard signs.

- Signs attached to light fixtures, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees.
- Windblown signs not specifically permitted in this Article such as pennants, streamers, spinners, balloons, inflatable figures, and similar signs.
- Signs which prevent free ingress to or egress from any door, window, or fire escape.
- Signs erected or displayed in such a manner as to obstruct free and clear vision at any location, street, intersection, or driveway.
- Signs attached to or painted on a vehicle or trailer that is located in view of the right-of-way when in a location or for a period of time that indicates that the primary intended use of the vehicle is for displaying the sign to passing motorists or pedestrians.
- Signs in a series of 2 or more signs placed in a line parallel to a public or private street, or in a similar fashion, all carrying a single commercial message, part of which is contained on each sign.
- Any sign which interferes with vehicular or pedestrian traffic as a result of its position, size, shape, movement, color, fashion, manner, or intensity of illumination, including signs with the potential to be confused with any authorized traffic sign, signal, or device.
- Signs erected or displayed on or over public rights-of-way or other public property, other than those erected by governmental agencies or for which appropriate encroachment agreements have been executed pursuant to this ordinance.
- Portable signs, except as specifically permitted herein.
- Flags displaying commercial messages in residentially zoned districts.
- Signs that move or flash or have moving or flashing components, except as permitted under Section 6 below; signs that are intermittently lighted or have changing colors; signs that revolve; or any other similarly constructed signs.
- Signs attached to the roofs of buildings or are otherwise located above the roofs of buildings.
- Outdoor advertising sign (billboards). The exception being that existing outdoor advertising signs that are non-conforming may be disassembled and replaced with a newer structure upon approval by the Planning Director or their designee. The new signage shall be designed to result in no expansion of or increase in the non-conformity; shall not allow replacement with a digital sign; shall not exceed 30' in height; shall be designed to limit lighting to the sign face; and shall be designed to enhance the architectural features of adjacent buildings. Color renderings or photographic simulations shall be submitted to the Planning Director or their designee, who shall have the authority to deny permits for signs that do not meet the intent of this Ordinance.

#### **17.6 Exempt Signs**

The following signs are exempt from the requirements of this ordinance although, in some instances, building permits may be required, such as an electrical permit for a machine sign or a time and temperature sign.

- Warning and security signs required by statute or regulation, including signs placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to signs identifying fire department connections or high voltage, public telephone, or underground cables.



- Signs erected by a unit of local, state, or federal government on property or within a right-of-way over which said government has authority or a right to operate within.
- Signs placed inside ball fields and outdoor amphitheaters that face toward the interior of the field or amphitheater and are primarily intended for viewing by persons attending events of performances.
- Accent lighting, as defined herein, provided that not more than two architectural elements are accented per occupancy (e.g., two windows or a window and a roofline, etc.).
- Temporary signs that are displayed for three days or less.
- Incidental signs containing no more than two square feet in area provided that not more than a total of six square feet of incidental signage is displayed per occupancy. Incidental signs may flash provided they are located inside a building and no more than one such sign is displayed per occupancy.



*Example of Incidental Signs*



*Example of Machine Signs*

- Machine signs containing no more than six square feet in area, except drive-through menu kiosk machine signs may contain up to 12 square feet in area provided the portion of the signs devoted to a logo or business name contains no more than 25% of the total sign area.
- Model home signs provided not more than one such sign is displayed in a subdivision and such sign contain no more than six square feet in area.
- Signs attached to donation bins.
- Any traffic sign, public notice or warning required by a valid and applicable federal, state, or local law, regulation, approved development plan, or ordinance, including traffic control signs on private property.
- Address signs no greater than five square feet in area that are erected or placed to meet fire code requirements (NCFPC Section 505.1). Address signs in excess of five square feet in area shall be counted toward the area of signage permitted for attached or freestanding signs depending on placement.
- Retail store window displays of merchandise.
- Signs attached to vehicles provided the vehicles are not parked in such a manner as to create the effect of additional signage, whether on-premises or off-premises.
- In nonresidential or mixed use districts during “election season”, Snipe or Yard signs, without limit on the number, containing no more than six square feet in area in residential districts and up to three signs, no more than 24 square feet in area will be permitted in the right-of-way, provided that such signs are erected no more than 30 days prior to the beginning of “one-stop” early voting under G.S. 163-227.2 and removed no later than 7 days following the applicable primary or election.
- Signs attached to umbrellas provided no more than 25% of the total area of the umbrella is devoted to signage.
- One temporary yard sign per property street frontage containing no more than six square feet in area in residential districts.

- Development projects under active building permits containing no more than six square feet in area in residential districts and no more than 24 square feet in area in nonresidential or mixed-use districts are permitted one sign per property street frontage, provided they are removed after the applicable permit is no longer active due to completion of permitted work or permit expiration. If combined with a temporary yard sign, the total exempt sign area may be increased to 32 square feet.



*Example of a Combined Construction/ Financing and Real Estate*

- Flags that do not exceed 40 square feet in area, that they are displayed on flagpoles not exceeding 30 feet in height, that no more than one flag is displayed on a zone lot of less than one acre in size and not more than two flags are displayed on zone lots of one acre or more in size, and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided size, height and setback requirements as established in this exemption are met.
- One sign per approved home occupation, not to exceed four square feet in area, and which must be attached to the building.
- Holiday lights and decorations, provided that such lights and decorations are not displayed for longer than a total of 60 days per calendar year in any nonresidential or mixed-use zoning district.
- Signs for “temporary businesses” such as, but not limited to, produce stands, street vendors, and vendors at special events that shall operate for a specified time period, not to exceed 7 consecutive days, are exempted. If the business is a recurring operation, such as produce stands that operate on weekends or on select days during the week, then said “temporary business” shall comply with the regulations set forth in this Ordinance; the exception being that the Planning Director or their designee may permit “temporary businesses” to use banners and temporary signage that comply with the standards and intent of this Ordinance to be used as signage, provided that the business puts the sign up at the start of the business day and takes it down at the close of each business day.

17.6-1 Sign Standards for Signs Allowed without a Permit

(A) Allowed Signs. The following signs are permitted in all zoning districts and may be installed without obtaining a permit provided they comply with the standards listed in this section.

- directional, instructional or warning signs provided they contain no commercial message except a business logo or name;
- flags, except that commercial flags displayed in single-family residential zoning districts are prohibited;
- temporary signs, including:
  - temporary real estate, construction, campaign, philosophical or yard sale signs;
  - Signs announcing temporary events or special promotions that do not involve the closing of a public street.
- historical or memorial plaques, tablets, or markers;
- philosophical, personal, religious, educational, or other noncommercial signs.

- identification signs including:
  - name and address plates;
  - directory signs in developments with multiple occupants so long as the signs are not legible from a public street;
  - building markers (cornerstones or plaques); and
  - signs identifying home occupations and tourist homes (bed & breakfast) in residential districts

(B) Standards for Signs Allowed without a Permit

- All signs must be located on private property, outside the public street right-of-way, and outside any required sight triangle except for temporary off-site directional signs, which are subject to the standards below.
- An electrical permit is required if a sign will be illuminated.

**Directional**

A sign with no commercial message and located off-site that aids the public in direction to religious assembly uses, hospitals, colleges and universities, and other similar institutional uses. Directional signs located adjacent to an existing or planned greenway (as shown on the adopted Pedestrian Plan) may contain the name, address, logo or other identifying symbol for adjacent use(s) to the greenway.



*Example of a Directional Sign*

Standards

1. Directional signs may not exceed 6 square feet in area or 8 feet in height.
2. Only external illumination is allowed.

**Instructional**

A sign with no commercial message that provides assistance, with respect to the premises on which it is maintained, for the direction, safety, or convenience of the public such as “entrance”, “exit”, “one way”, “telephone”, “parking”, “no parking”, and similar instructions. Instructional signs may include a name, address, logo, or other identifying symbol (not to exceed 30% of sign area) to aid in directing the public.



*Example of an Instructional Sign*

Standards

1. Instructional signs may not exceed 6 square feet in area or 8 feet in height.
2. Colleges, universities, hospitals, coliseums, and convention centers may have instructional signs that exceed the allowable area limit if approved as a part of a Master Sign Plan (see 17.10).
3. Instructional signs may be internally or externally illuminated.

## Warning

A sign that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of high voltage, “no trespassing”, and similar directives. Warning signs shall contain no commercial messages other than identification of the entity that controls the property or other focus of the danger that is the subject of the warning.



*Example of a Warning Sign*

### Standards

1. Warning signs may not exceed 6 square feet in area or 8 feet in height.
2. Warning signs may be internally or externally illuminated.

## Historical or Memorial Sign

A sign that commemorates a historical person, structure, place, or event; or that denotes, honors, celebrates, or acknowledges a historical person, structure, place or event.



*Example of a Historical Sign*

### Standards

1. Only 1 historical or memorial sign is permitted per lot.
2. Historical or memorial signs may not exceed 6 square feet in area or 8 feet in height.
3. Only external illumination allowed.
4. Such signs are allowed on any site or building certified or designated as having historic significance by a federal, state or local agency, or, if tied to a specific historical event, in close proximity to where the event occurred.

## Flags

A piece of fabric or other flexible material attached to a permanent pole that is not readily movable containing colors, patterns, standards, words, or emblems.



*Examples of Flags*

### Standards

1. Flags shall not exceed 60 square feet in area (calculated as a cumulative total).
2. Shall not be displayed on flagpoles not exceeding 30 feet in height.
3. No more than one flag shall be displayed on a zone lot of less than one acre in size and not more than three flags are displayed on zone lots of one acre or more in size
4. All flagpoles are setback at least the height of the flagpole from all property lines.
5. Flagpoles may be roof or wall-mounted provided size, height and setback requirements as established in this article are met.
6. Only external illumination is allowed.
7. Pennant-style flags used on a temporary basis are not permitted in any zoning district.

## Temporary Real Estate, Construction, Campaign Philosophical or Yard Sale

**Real Estate Sign.** A sign displayed for the purpose of offering for sale, lease, or rent the property on which such sign is erected, affixed, or otherwise established.

**Construction Sign.** A sign which identifies the architects, engineers, contractors, and other individuals or firms involved with construction on the property, the name of the building or development, the intended purpose of the building or development, and/or the expected completion date.



*Example of Real Estate Sign*

### Standards

1. Temporary real estate, construction, campaign, philosophical or yard sale signs in nonresidential zoning districts may not exceed 36 square feet in area or 8 feet in height.
2. Temporary real estate, construction, campaign, philosophical or yard sale signs in all other zoning districts may not exceed 6 square feet in area or 6 feet in height.
3. Such signs may not be illuminated.
4. Temporary real estate, construction, campaign, philosophical or yard sale signs may only be located on private property with the property owner's permission.
5. Temporary real estate, construction, campaign, or philosophical signs may be erected 30 days prior to the election, event, construction, issue, sale or lease of the property and must be removed within 7 days of the completion of the election, event, construction, issue, or sale or lease of property.

## Temporary Off-Site Directional Signs

A temporary sign displayed for the purpose of aiding the public to a property or development being offered for sale, lease or rent, or associated with a weekend event, that is not erected, affixed or otherwise established on the lot being offered for sale, lease or rent or containing the weekend event. Temporary Off-Site Directional Signs are intended to aid the traveling public in locating activities that do not take place during the normal work week or on a recurring basis.



*Example of Temporary Off-Site Directional Signs*

### Standards

1. No more than one off-site directional sign per direction and per property, development, company or event may be placed at a street intersection where a prospective client must make a turn to travel to the subject property.
2. Signs for the same developer/builder/company/event must be spaced at least 600 feet from all other signs unless they are placed at a street intersection where a prospective client must make a turn to travel to the subject property.
3. Signs shall not be placed on lands within the public rights-of-way that are entirely surrounded by public streets, such as roadway medians and traffic islands.
4. Signs shall be placed so as not to interfere with or obstruct pedestrian or vehicular traffic or obstruct sight distances at intersections.



5. Except with the permission of the property owner or occupant, signs shall not be located in front of or abutting a lot containing a single-family detached dwelling.
6. Signs shall only be displayed from 12:00 P.M. (noon) on Friday to 12:00 P.M. (noon) the following Monday.
7. Signs shall be freestanding and may not be anchored to a sidewalk or attached to utility poles or other structures or appurtenances.
8. Such signs may not exceed 6 square feet in area or 3 feet in height.
9. Signs shall not be placed on property owned or maintained by the Town (ex. – signs are not permitted on the Town’s entry sign parks, library grounds, or Town Hall property)

### Temporary Sandwich Board

#### Standards

1. One temporary sandwich board sign is allowed per storefront/establishment and only on paved surfaces.
2. Such signs may not exceed 8 square feet per side of sign, 2 feet in width (when opened) and 4 feet in height.
3. Such signs must be placed so as not to interfere with or obstruct pedestrian and vehicular access. A minimum of 5 feet of clear passage must be maintained on the sidewalk between the physical street edge and the sign.
4. Such signs may not be anchored to the sidewalk, or attached or chained to poles, newspaper vending boxes, or other structures or appurtenances.
5. Temporary sandwich board signs may bear a commercial message related to an associated establishment or any noncommercial message.
6. Such signs must be brought in at the close of business day. Such signs may not be left up overnight.



*Example of a Temporary Sandwich Board Sign*

### Temporary Event

#### Standards

1. Temporary event signs in nonresidential zoning districts may not exceed 60 square feet in area or 6 feet in height.
2. Temporary event signs in all other districts may not exceed 36 square feet in area or 6 feet in height.
3. Such signs may not be illuminated.
4. Temporary event signs may only be displayed for three (3) days or less. Signs left up for longer than three (3) days require a Temporary Sign Permit (Section 17.8).



*Example of a Temporary Event Sign*

## Identification

A sign affixed to a wall used to display: the name, address, logo, or other identifying symbol of the individual, family, business, institution, service, or organization occupying the premises; the profession of the occupant; the name of the building on which the sign is attached; or directory information in group developments or buildings with multiple tenants.



*Example of an Identification Sign*

### Standards

1. Only one identification sign is allowed per building.
2. Identification signs may not exceed 4 square feet per tenant or 24 square feet whichever is less.
3. Identification signs may not exceed 6 feet in height.

## 17.7 Design and Dimensional Requirements for Permanent Signs Requiring a Permit

### 17.7-1 Requirements for signs extending over pedestrian and vehicular travel areas.

Signs extending over pedestrian and vehicular travel areas shall maintain a minimum clear distance between the ground and any portion of the sign and its associated support structure of nine and 14 feet respectively.








### 17.7-2 Permanent sign requirements.



The following tables and text provide the design and dimensional requirements for permanent signs that require a permit. Requirements include area, number, type of illumination, and letter height for both attached and freestanding signs. Setback and height requirements are established for freestanding signs and detailed design requirements are provided for monument and pole signs. Additionally:

- Only one general attached sign (blade, V-type, or flat) is allowed per street or parking frontage.
- Only one monument or pole freestanding sign is allowed per street frontage.
- Height of freestanding signs shall be measured from the elevation of the ground at the point of contact with the sign provided that the grade of the site is not artificially altered to increase the allowable height of the sign. For sloping sites, the applicable point of contact shall be the point having the highest elevation.
- The following permanent special purpose signs are allowed in addition to general attached and freestanding signs under the limitations provided in the following tables and elsewhere in this Article.
  - Window.
  - Directional.
  - Directory.
  - Awning.
  - Canopy.

- Community identification.
- Time and temperature signs are allowed as either attached or freestanding signs provided they are incorporated into the general or attached signage allowed for a nonresidential property, no more than one such sign is allowed per property, the message is limited to time and temperature information and changes no more frequently than once every five seconds, and the area of the time and temperature sign does not exceed 16 square feet. The square footage allowance constitutes an area bonus in addition to the maximum allowable area for the applicable sign type.
- Changeable copy signs are allowed as either attached or freestanding signs provided they are incorporated into the general or attached signage allowed. For example, the changeable copy area shall be calculated as a part of the overall cumulative sign area and shall be a part of the overall sign and may not exceed 50% of the overall signage square footage. Freestanding changeable copy signs are not permitted as a single cabinet but must be incorporated into the sign as a whole. In addition, the following standards shall apply:
  - Changeable copy signs shall only be permitted in nonresidential zoned districts.
  - Signs shall not change more frequently than once every 4 hours for manually changing signs and once every 5 seconds for digitally changing signs.
  - Digital signs must be off between 10pm and 7am daily (automatic timers are required) and must not exceed a 33% maximum white/bright factor (ex – no more than 1/3 of the sign copy shall use bright or white colors). If the digital sign is located within 200 ft. of a residentially zoned property, then the sign must not exceed a 10% maximum white/bright factor.
  - Digital signs may not exceed a maximum illumination of 1 foot-candle above ambient lighting conditions, as measured from the nearest property line or street right-of-way to the sign's face at maximum brightness. Each sign must be equipped with automatic dimming technology that adjusts the display's brightness based on ambient light conditions and automatic shutoff equipment when the sign is malfunctioning.
  - Transitions must be made from one image to the next in one second or less. Fading, flashing, scrolling, spinning or other animated effects may not be used as part of the transition.
  - No sequential messages are allowed. Each message displayed must be complete in themselves, without continuation in content to the next message or to any other sign.



Sign Type	Example	Sign Area Allowance (sq ft)	Max. Sign Height	Sign Illumination	Min. Letter Size	Max. Number	Minimum Setback from Property	Other Requirements
Blade (or Projecting)		32	-	Ambient, External, Internal	6"	One per street or parking frontage per occupancy	-	Only one sign (blade, V-type, or flat sign) allowed per occupancy per street or parking frontage
V-Type		32	-	Ambient, External, Internal	6"	One per street or parking frontage per occupancy	-	One sq. ft. of signage for each sq. ft. of occupancy frontage up to the maximum allowed  Internally-illuminated signs – not more than 50% of sign face can be illuminated
Flat (or wall)		32	-	Ambient, External, Internal	6"	One per street or parking frontage per occupancy	-	No attached signage above second story.  Wall signs may exceed the 32sf requirements up to a maximum of 5% of the wall façade size (sq. footage)
Window		8	8	Ambient	-	One per each 100 sq ft of display or window area or fraction thereof	-	A maximum allowance of three signs per street or parking frontage per occupancy
Awning		6	6	Ambient	4"	One per street or parking frontage per awning	-	Not more than two awning signs per occupancy per street or parking frontage
Canopy		16	16	Ambient, Internal	6"	One per Canopy*	-	Properties fronting on more than one street may have one canopy sign per street entrance
Monument		48	8	Ambient, External, Internal	6"	One per street frontage having access to the site	5'	Monument signs shall comply with the design requirements of Section 17.7-3

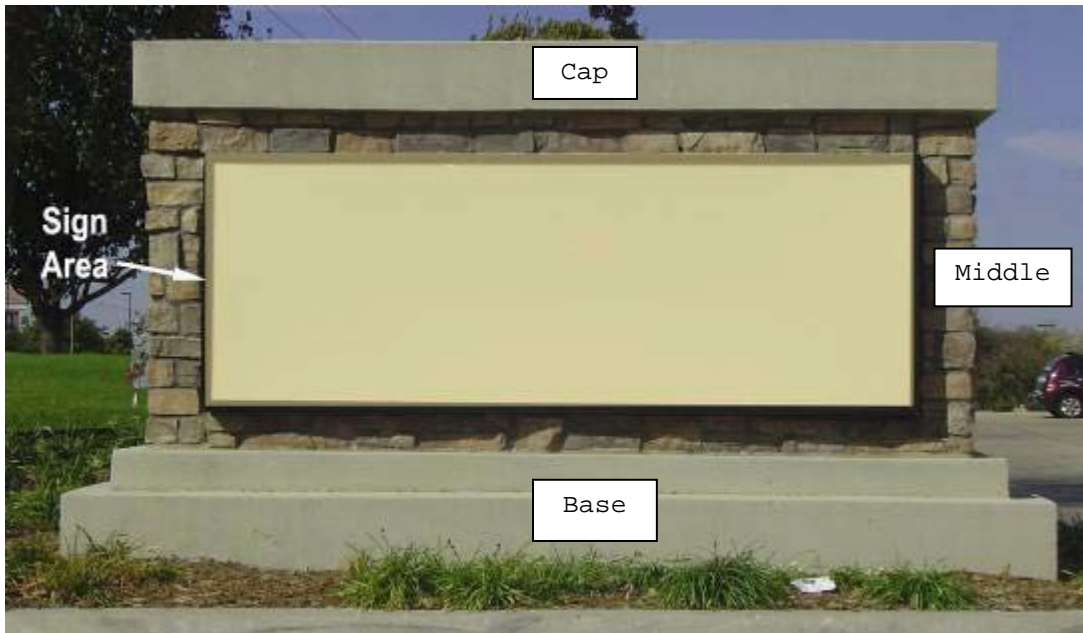
Sign Type	Example	Sign Area Allowance (sq ft)	Max. Sign Height	Sign Illumination	Min. Letter Size	Max. Number	Minimum Setback from Property	Other Requirements
Pole		32	10	Ambient, External, Internal	6"	One per street frontage having access to the site	10'	Pole signs shall comply with the design requirements of Section 17.7-4
Directory		16	6	Ambient, External, Internal	4"	One per street frontage having access to the site	25'	Only allowed for sites with multiple buildings  Shall not be displayed so as to be prominently visible from off-site locations
*May encroach into adjoining street right-of-way pursuant to an encroachment agreement.								

17.7-3 Monument sign design requirements.

Monument signs are intended to serve a wider range of aesthetic and architectural purposes than pole signs. Consequently, the following design requirements are established for monument signs.

(A) General design requirements and sign area measurement for monument signs. As in traditional building design, monument signs shall be designed to include a base, middle, and cap. The following illustration shows a monument sign having these architectural characteristics, as well as how sign area is to be measured on a monument sign.

**Monument Sign Design Elements**



(B) Sign structure materials. In general, monument sign structures should be constructed of materials that are similar to or complementary to the principal building(s) on the premises where they are located. Only the following materials or combination of materials shall be used in monument sign structure construction:

- Brick, painted or unfinished
- Wood, or wood synthetic
- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance
- Metal
- Glass

Sign copy materials. Sign copy materials for monument signs shall include the sign structure materials listed above. For internally illuminated monument sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

17.7-4 Pole sign design requirements.

The following design requirements are established for pole signs.

- (A) General design requirements. Pole signs in Jamestown have traditionally been supported by two posts or suspended from a single post as shown in the following illustrations. Pole signs shall use one of these two forms of design.

**Examples of Allowable Types of Pole Signs**



- (B) Materials. In general, pole signs should use materials that complement the principal building(s) on the premises where they are located. Only the following materials or combination of materials shall be used in monument sign structure construction:

- Wood, or wood synthetic
- Metal
- Brick, painted or unfinished
- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance

## 17.8 Temporary Signs

The following tables provide the design, dimensional, and time of display requirements for temporary signs. Additionally: Nonconforming temporary signs shall not be grandfathered (see section 17.12 of this Article).

### 17.8-1 Requirements for temporary signs that require a permit.

The temporary signs listed in the following table require a permit and shall comply with the indicated zoning location and other requirements. All such signs, with the exception of searchlights, shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements
Banners	All Commercial and Mixed-Use Districts	Up to 60 square feet of banner materials may be attached to an occupancy space. Pennant-style temporary flags or banners are not permitted in any zoning district. Display time limit: 21 days, four times per calendar year with a 60-day separation between permits. Properties on which a religious institution, educational institution, or other civic organization are situated may display banners up to six times per year, provided that a minimum separation of one week is provided between displays.
Grand Opening		Up to 60 square feet of banner materials may be attached to an occupancy space. Display time limit: 21 days; Such signage may be placed beginning within 30 days from the receipt of an occupancy permit or start of Town utility services.
Special Event Signs		One tethered balloon or searchlight to be located on-premises and displayed for not more than three consecutive days once per calendar year. Tethered balloons and searchlights shall conform to all applicable FAA regulations.  Joint special event signage for three or more businesses may be approved by the Planning Director or their designee for special events. Such events shall not exceed seven days in duration or a cumulative total of 60 days per calendar year per occupancy with a 14-day minimum separation between permits. Event participants shall submit an application which outlines the types of signage desired and where such signage is proposed to be located. The Planning Director or their designee may meet with applicants on-site to determine acceptable locations for signage placement. Signage shall not exceed 60 sq. ft. per occupancy; however, accent balloons may also be displayed, with a maximum number of 12 balloons per occupancy.

## **17.9 Signs Located in Local Historic Districts**

Regardless of the other dimensional provisions of this Article, signs that are located in local historic districts shall be governed by the applicable design guidelines and review processes established for the local historic district.

### **17.10 Master Sign Plan**

Regardless of the other provisions of this Article, the Town Council may, at its sole discretion, approve a master sign plan for specified areas of Town or for certain development projects listed in this section. The approved master sign plan may include signs of different sizes, types, locations, placement and height from those otherwise enumerated in this Article.

#### 17.10-1 Purpose.

The purpose behind this section is to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development or area of Town.

#### 17.10-2 Application.

Master sign plans may be submitted for the following types of developments:

- (A) Traditional Neighborhood Development projects.
- (B) Commercial, institutional, industrial, or mixed-use developments containing three or more acres in area.
- (C) Areas of Town that are governed by a corridor plan or area plan that includes sign guidelines.

#### 17.10-3 Submittal process.

Master sign plan applications may be submitted for consideration at the time of original submittal of the proposed development or separately from the original development proposal. The following information or material shall be required for a signage plan application and shall be indicated on an application form provided by the planning director or their designee.

- (A) Owner and contact name, address, telephone number and signature(s), as applicable.
- (B) A master sign plan proposal illustrating the proposed signs, their proposed location, and their proposed purpose, along with a statement as to why the existing sign code cannot or should not be followed in the subject case.
- (C) An analysis showing how the proposed signage plan differs from what could be provided under the existing sign regulations set forth in this Article.
- (D) Other similar information determined by the planning director or their designee to be necessary for understanding the purpose and intent of the proposed master sign plan application.

#### 17.10-4 Review procedure.

The planning director or their designee shall schedule the master sign plan for Planning Board and Town Council consideration in accordance with the notice and hearing procedures set forth

in Article 5 for zoning map amendments. In reviewing the proposed master sign plan, the Planning Board and Town Council shall take the following matters into consideration.

- (A) The extent to which the proposed master sign plan deviates from the sign allowances otherwise applicable in this Article.
- (B) The rationale provided by the applicant for the deviations.
- (C) The extent to which the master sign plan promotes Town goals associated with community character, way-finding, pedestrian-orientation, and business identification.
- (D) The degree to which the master sign plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.

The Planning Board shall provide a recommendation to the Town Council whether to deny or approve the proposed master sign plan in part or in total and shall further recommend conditions regarding approval where deemed warranted.

The Town Council may deny or approve the proposed master sign plan in part or in total and may establish conditions regarding approval. In the event that the master sign plan is denied, the applicant must wait at least 365 days before reapplying for a new master sign plan substantially similar (as defined in Article 3) to the proposed master sign plan.

#### **17.11 Permitting**

Applications for sign permits and the associated fee schedule may be obtained from the Planning Department. Completed applications, including payment of fees, shall be reviewed for compliance with the requirements of this ordinance and may be approved, approved with conditions, or denied by the Planning Director or their designee.

Signs requiring sign permits under the provisions of this ordinance may also require additional permits, including building permits and electrical permits. It shall be the responsibility of the applicant to obtain all applicable permits.

#### **17.12 Nonconforming Signs**

Any existing permanent sign which does not comply with one or more of the requirements of this Article shall be grandfathered until such sign is removed, physically altered beyond maintenance (as defined), relocated, damaged or destroyed, after which it shall be brought into compliance with all requirements of this Article. An exception shall be made for signs which must be relocated as the direct result of a governmental action (such as, but not limited to, the acquisition of street right-of-way, eminent domain action, or installation of infrastructure). Such an exception will be subject to review by the Planning Director or their designee, who will work to help property owners bring their signs into compliance. If no reasonable alternative exists, the Planning Director or their designee may allow a sign to be relocated to an acceptable location on the same property. Signs which are permitted to be relocated shall not be altered in such a manner to constitute a change in the sign. Changes in the sign beyond maintenance as defined shall result in the sign being brought into compliance. Appeals may be made to the Board of Adjustment per the procedure in this Land Development Ordinance. Nonconforming temporary signs shall not be grandfathered and shall be brought into compliance with all requirements of this Article within 60 days from adoption date.



### 17.13 Abandoned Signs

Signs located on the premises of a building that does not contain an active use or occupancy shall be considered abandoned signs and shall be removed by the owner of the property on which they are located. Failure to remove an abandoned sign shall be considered a violation of this ordinance. In addition, correction of an abandoned sign violation may include removal of the abandoned sign or signs by the Town at the owner's expense after proper notice of the violation and failure to act by the owner within the timeframe established in the notice of violation.

### 17.14 Maintenance

All signs, including exempt signs, shall be maintained in a satisfactory state of repair. This shall include, without limitation, correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the sign(s), replacement of defective lighting of illuminated signs, secure attachment to the building for attached signs, and stable vertical alignment of freestanding signs.

[Signs must meet minimum non-residential standards as defined in 24.10-8J.](#)

### 17.15 Design Guidelines

In addition to the mandatory standards provided above, the following design guidelines for signs are provided in order to promote more attractive and functional design and placement of signs.

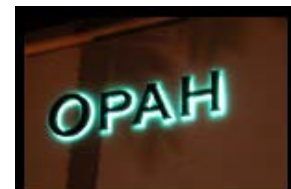
- Freestanding signs. Placement of freestanding signs should take into account existing trees and other site landscaping so as to maintain sign visibility. Landscaping around the base of freestanding signs is strongly encouraged to improve the overall appearance and visibility of these sign types as evidenced in the following example.
- Display windows are intended to offer opportunities to display merchandise or services available on the premises. Careful placement of signs in display windows will not obscure the visibility of merchandise or services. Additionally, display windows should not be "papered-over," especially in pedestrian areas.
- General design guidelines. The following general guidelines are provided to guide overall sign design in the Town:
  - Use high quality, durable materials.
  - Minimize the need for sign lighting by placing signs where ambient light sources illuminate the sign. Where separate lighting is necessary, external illumination sources are preferred over internal illumination. All electrical conduit and junction boxes should be concealed.
  - Backlit, individual letter signs (aka, halo lighting) are encouraged where illumination is needed as illustrated below.
  - Avoid elaborate or confusing styles of text as illustrated in the example.



*Example of Landscaping Around the Base of a Monument Sign*



*Example of Externally Illuminated*



*Example of Backlit Individual Letters*



*Example of Confusing Style of Text*



- Attempt to use symbols rather than text; for example, this Norwegian pharmacy sign incorporates a symbol as well as text.
- Use sign styles and designs that complement the architecture of the site where the signs are located. Jamestown is a historic town so using “period” signage is strongly encouraged.



*Example of Use of Symbols*



*Example of "Period" Pole Sign*

**ARTICLE 24**  
**NUISANCE ABATEMENT, PROPERTY MANAGEMENT CODE & MINIMUM**  
**HOUSING CODE**

**24.1 Title**

This article shall be known as the Town of Jamestown Nuisance Abatement, Property Maintenance Code & Minimum Housing Code.

**24.2 Purpose**

The Town of Jamestown has determined that poorly maintained properties can lead to neighborhood decline by contributing to lower property values and by discouraging potential buyers from purchasing in neighborhoods with poorly maintained properties. Additionally, the Town has determined that poorly maintained properties create public safety impacts, including creating fire and other life safety hazards, serving as places for the infestation of insects and vermin, and creating attractive public nuisances. The Town recognizes that it has an obligation to protect its residential and nonresidential neighborhoods from decline and devaluation and to maintain public health and safety. Consequently, the Town has established the following regulations for nuisance abatement and the maintenance of properties within its corporate jurisdiction and its extraterritorial jurisdiction.

**24.3 Scope**

The provisions of this code shall apply to all structures, premises and properties within the corporate jurisdiction of the Town of Jamestown and its extraterritorial jurisdiction.

**24.4 Minimum Housing Regulations**

*Statutory reference:*

*Repair, closing or demolition of abandoned structures, see G.S. 160D-1201*

**24.4-1 General Provisions**

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

- (A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every dwelling or any appurtenances connected, attached, or used in connection with any dwelling.
- (B) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of building sewers, building drains, waste and vent systems, hot and cold-water supply systems, and all fixtures and appurtenances thereof.

The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning or refrigerating systems, fuel burning equipment, and appurtenances thereof; and

#### **24.4-2 State Building Code and International Property Maintenance Code Adopted**

The current version of the North Carolina State Building Code and the International Property Maintenance Code (IPMC) is hereby adopted, and any later adopted versions of the State Building Code or the IPMC shall be deemed adopted by the town without further action by the Town Council.

#### **24.4-3 Compliance with State Building Code and International Property Maintenance Code**

All dwellings, nonresidential buildings and other structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements of the North Carolina State Building Code and the International Property Maintenance Code.

#### **24.4-4 Finding; Purpose**

- (A) Pursuant to G.S. § 160D-1201, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering the dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.
- (B) In order to protect the health, safety, and welfare of the residents of the town, as authorized by G.S. § 160D-1201 et seq., it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160D-1205.

#### **24.4-5 Fitness of Dwellings and Dwelling Units**

- (A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with the North Carolina State Building Code and IPMC and all of the minimum standards of fitness for human habitation and other requirements this code.
- (B) No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with the North Carolina State Building Code and IPMC and all the minimum standards of fitness for human habitation and other requirements of this code.

#### 24.4-6 Structural Condition

- (A) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents. [\(IPMC 304.4\)](#)
- (B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. [\(IPMC 304.1.1\)](#)
- (C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged. [\(IPMC 304.1\)](#)
- (D) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition that they will not fail or collapse. [\(IPMC 305.1.1\)](#)
- (E) Adequate facilities for egress in case of fire or panic shall be provided.
- (F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces. [\(IPMC 305.3\)](#)
- (G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight. [\(IPMC 304.7\)](#)
- (H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a condition or location as to constitute a fire hazard. [\(IPMC 304.11\)](#)
- (I) There shall be no use of the ground for floors, or wood floors on the ground.

#### 24.4-7 Basic Equipment and Facilities

(A) *Plumbing system.*

- (1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system. [\(IPMC 505.1\)](#)
- (2) (a) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. [\(IPMC 502.1\)](#)
- (b) All water shall be supplied through an approved pipe distribution system connected to a potable water supply. [\(IPMC 500\)](#)

(3) All plumbing fixtures shall meet the standards of the North Carolina State Building Code and shall be maintained in a state of good repair and in good working order. (NC Building Code Chapter 5)

(4)(a) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the same.

(b) The water closet and tub or shower shall be in a room or rooms affording privacy to the user. (IPMC 503.1)

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either division (B)(1) or (B)(2) below.

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity, and shall be connected, so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to a minimum temperature of ~~70~~ 68°F measured as a point three (3) feet above the floor. (160D-1204a)

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms to a minimum temperature of 70°F measured three (3) feet above the floor. (160D-1204b)

(3) *Portable kerosene heaters.* Portable kerosene heaters are not acceptable as a permanent source of heat but may be used as a supplementary source in single family dwellings and duplex units. An owner who has complied shall not be held in violation of this subsection where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat. (160D-1204c)

(C) *Electrical system.*

(1)(a) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in a manner as determined by the North Carolina State Building Code. (IPMC 605.2)

(b) There shall be installed in every bathroom, water closet room, laundry room and furnace room, at least one supplied ceiling, or wall-type electric light fixture. (IPMC 605.3)

(c) In the event wall or ceiling light fixtures are not provided in any habitable room, then each habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multi-dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient. [\(IPMC 605.3\)](#)

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the North Carolina State Building Code/[National Electric Code](#).

#### **24.4-8 Ventilation**

##### *(A) General.*

(1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. [\(IPMC 403.1\)](#)

(2) The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of the room. [\(IPMC 402.1\)](#)

(3) Whenever walls or other portions of structures face a window or any room and the light-obstructing structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, the window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. [\(IPMC 402.1\)](#)

(4) Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room.

##### *(B) Habitable rooms.*

(1) Every habitable room shall have at least one (1) window or skylight which can easily be opened, or other device as will adequately ventilate the room. [\(IPMC 403.1\)](#)

(2) The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation. [\(IPMC 403.1\)](#)

*(C) Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. [\(IPMC 403.2\)](#)

#### **24.4-9 Space, Use and Location**

*(A) Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina State Building Code.

- (1) Every dwelling unit shall contain at least ~~150~~ 120 square feet of habitable floor area for the first occupant, at least 120 square feet of additional habitable area for each of the next three (3) occupants, and at least ~~75~~ 30 square feet of additional habitable floor area for each additional occupant. (IPMC 401.1, 401.5)
- (2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof. ~~twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.~~ (IPMC 404.4.1)

(B) Ceiling height. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet. (IPMC 404.3)

~~At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.~~

*(C) Floor area calculation.*

- (1) Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area.
- (2) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet shall be included. (IPMC 404.3.3)~~The floor area of any part of any room where the ceiling height is less than four and one-half (4 1/2) feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.~~

(D) Cellar. No cellar shall be used for living purposes.

*(E) Basements.* No basement shall be used for living purposes unless:

- (1) The floor and walls are substantially watertight.
- (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms (402.1); and
- (3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or access way.

## 24.4-10 Safe and Sanitary Maintenance

(A) *Exterior foundation, walls, and roofs.*

- (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. [\(IPMC 304.5, 304.6, 304.7\)](#)
- (2) Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather. [\(IPMC 304.2\)](#)

(B) *Interior floors, walls, and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. [\(IPMC 305.2\)](#)

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof, and shall be kept in sound working condition and good repair. [\(IPMC 304.13\)](#)

(D) *Stairs, porches, and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. [\(IPMC 304.10\)](#)

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition. [\(IPMC 503.4\)](#)

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water. [\(IPMC 302.2\)](#)

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health. [\(IPMC 302.4\)](#)

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the North Carolina State Building Code [\(R311.1\)](#).

#### **24.4-11 Control of Insects, Rodents, and Infestations**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings



to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. [\(IPMC 304.14\)](#)

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance. [\(IPMC 304.17\)](#)

(C) *Infestation.*

(1) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his or her dwelling unit is the only one infested. [\(IPMC 309.3\)](#)

(2) ~~The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner.~~ [\(IPMC 309.2\)](#)

(3) Whenever infestation exists in two or more dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner. [\(IPMC 309.4\)](#)

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall store rubbish as required by town ordinances, and the owner, operator, or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish. [\(IPMC 308.2, 308.3\)](#)

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by a Town Building Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances. [\(IPMC 308.3.1\)](#)

#### **24.4-12 Rooming Houses; Exceptions**

All the provisions of this chapter, and all the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions.

(A) *Water closet, hand lavatory and bath facilities.*

- (1) At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever the facilities are shared. [\(IPMC 502.2\)](#)
- (2) All the facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing the facilities. at all times. [\(IPMC 503.2\)](#)
- (3) Every lavatory basin and bathtub or shower shall be supplied with hot and cold water. [\(IPMC 505.1\)](#)
- (4) The required facilities shall not be located in a cellar.

*(B) Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least (fifty) 50 square feet of floor area for each occupant (twelve) 12 years of age and over and at least (thirty-five) 35 square feet of floor area for each occupant under (twelve) 12 years of age. [\(IPMC 404.4.1\)](#)

*(C) Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator. [\(IPMC 301.2\)](#)

~~*(D) Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (A) above shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein. [\(REPEAT OF 24.4-12-1\)](#)~~

#### **24.4-13 Responsibilities of Owners and Occupants**

*(A) Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. [\(IPMC 301.2\)](#)

*(B) Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls. [\(IPPMC 305.1\)](#)

*(C) Rubbish and garbage.*

- (1) Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. [\(IPMC 308.2\)](#)
  - (2) In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities. [\(IPMC308.2.1\)](#)
- (D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of the same. [\(IPMC 301.2\)](#)
- [\(E\)](#) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

#### **24.4-14 Inspector; Powers and Duties**

(A) *Inspector appointed.* The Jamestown Town Manager is hereby appointed to serve as the Jamestown Minimum Housing Inspector. The Manager may delegate these duties to any Town employee or contractor.

(B) *Duties.* It shall be the duty of the Inspector:

- (1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the dwellings and dwelling units;
- (2) To take action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and
- (4) To perform the other duties as may be herein prescribed.

(C) *Powers.* The Inspector is authorized to exercise the powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation.
- (2) To administer oaths and affirmations, examine witnesses and receive evidence.

- (3) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in accordance with law and in the manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To appoint and fix the duties of the officers, agents and employees as he or she deems necessary to carry out the purpose of this chapter.

*(D) Relief from personal liability. Any official, officer, employee, or authorized qualified third-party agency or individual charged with the enforcement of this code, while acting for the Town, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property because of an act required or permitted in the discharge of the official duties described herein.*

#### **24.4-15 Procedure for Enforcement; Service of Complaints and Orders**

*(A) Procedure for enforcement.*

- (1) Preliminary investigation; Notice; Hearing.
  - (a) Whenever a petition is filed with the Inspector by a public authority or by at least five (5) residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint.
  - (b) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
  - (c) Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling.
  - (d) Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard.
  - (e) Hearings before the Inspector shall be quasi-judicial in nature. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.
- (2) Procedure after hearing.

- (a) After the notice and hearing, the Inspector shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation. If the Inspector determines the dwelling or dwelling unit is unfit for human habitation, then her or she shall also determine whether the structure is deteriorated or dilapidated.
- (b) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed ninety (90) days.
- (c) If the Inspector determines that the dwelling or dwelling unit is deteriorated, the order may also require that the property be vacated and closed. The Inspector may issue an order to vacate and close only if the Inspector determines in writing that continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical or mental disabilities.
- (d) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or else vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the town and the town's Historic District Commission, or the Town Council if such a commission does not exist, determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. § 160D-949.
- (e) An order issued shall also state:
  - (i) That the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order, and
  - (ii) That any person aggrieved by the order may appeal the decision to the Board of Adjustment within thirty (30) days from the rendering of the decision or service of the order.

(B) Whenever the Inspector orders a dwelling be vacated and closed or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector or Town Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Inspector to wait forty-five (45) days before causing removal or demolition.

*(C) Methods of service of complaints and orders.*

- (1) Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

#### **24.4-16 Failure to Comply with an Order**

(A) *Failure to comply with an order – in personam remedy.* Pursuant to G.S. § 160D-1208, if the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector may submit to the Town Council a resolution directing the Town Attorney to institute any appropriate action in the Guilford County Superior Court for an order directing the owner and/or occupants to comply with the order of the Inspector; to otherwise prevent the unlawful erection, construction, reconstruction, alteration or use; to restrain, correct or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

*(B) Failure to comply with an order – in rem remedy.*

- (1) If the owner of any deteriorated or dilapidated dwelling or dwelling unit shall fail to comply an order of the Inspector issued pursuant to this chapter, the Inspector may petition the Town Council adopt an ordinance authorizing the Inspector to carry the Inspector's order into effect. Upon adoption of said ordinance, the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- (2) No ordinance adopted by the Town Council shall direct the Inspector to take an action other than those actions specified in the Inspector's written order, except that the Council may allow additional time to repair a dwelling.
- (3) No ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the town Minimum Housing Code.
- (4) Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(C) Each ordinance shall be recorded in the office of the Guilford County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

**24.4-17 Costs a Lien on Premises; Sale of Materials**

- (A) As provided by G.S. § 160D1203(7), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter. 160A, Art. 10.
- (B) If the real property upon which the cost was incurred is located within the corporate limits of the town, then the amount of the cost is also a lien on any other real property of the owner located within the town limits or within one (1) mile thereof except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (C) If the dwelling is removed or demolished by the Inspector, he or she shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Guilford County Superior Court by the Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree

of the Court. Nothing in this subsection shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

#### **24.4-18 Abandonment of Intent to Repair**

(A) If (i) the Town Council has adopted an ordinance as provided in this chapter or the Inspector has issued an order determining a structure is deteriorated and ordering a dwelling to be repaired or vacated and closed and (ii) the dwelling has been vacated and closed for a period of one (1) year pursuant to the ordinance or order, then the Council may conduct a hearing to determine whether the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation. If after a hearing, the Council finds that the owner has abandoned his or her intent to repair the dwelling and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Council may, after the expiration of such one (1) year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or

(2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

(B) This ordinance shall be recorded in the Guilford County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Inspector shall effectuate the purpose of the ordinance.

#### **24.4-19 Alternative and Supplemental Remedies**

(A) Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4.

(B) The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.



(C) If any occupant fails to comply with an order to vacate a dwelling, the Inspector, with authorization from the Town Council, may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The Guilford County Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town Council pursuant to this chapter authorizing the Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the Town Council has ordered the Inspector to proceed to exercise his or her duties pursuant to this chapter to vacate and close or remove and demolish the dwelling.

#### **24.4-20 Appeals**

- (A) An appeal from any decision or order of the Inspector may be taken to the Zoning Board of Adjustment by any person aggrieved thereby or by any officer, board or Council of the town. Any appeal from the Inspector shall be taken within thirty (30) days from the rendering of the decision or service of the order by filing a notice of appeal with the Inspector, which notice shall specify the grounds upon which the appeal is based.
- (B) Upon the filing of any notice of appeal, the Inspector shall promptly transmit to the Zoning Board of Adjustment all the papers, photographs and other documents constituting the record upon which the decision appealed from was made.
- (C) When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Zoning Board of Adjustment, unless the Inspector certifies to the board, after the notice of appeal is filed with him or her, that because of facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the Inspector, by the board, or by a court of record upon petition.

- (D) The Zoning Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of a majority of the members of the board shall be necessary to reverse or modify any decision or order of the Inspector. The board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (E) Every decision of the Zoning Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted in the Guilford County Superior Court within fifteen (15) days of the decision of the board, but not otherwise.
- (F) Any person aggrieved by an order issued by the Inspector, or a decision rendered by the Zoning Board of Adjustment may petition the Guilford County Superior Court for an injunction restraining the Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty (20) days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

#### **24.4-21 Conflict with other provisions**

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

#### **24.4-22 Violations**

- (A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in the order, and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense.
- (B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this chapter, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its

vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

#### **24.4-23 Penalty and Enforcement**

In addition to the other remedies provided here in, any provision of this chapter may be enforced by any remedy, including but not limited to civil penalties as provided in Code Section 10.99 and G.S. §§ 160A-175 and 160D-404.

#### **24.5 Maintenance of Structures**

**24.5-1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated, and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces, except that surface designed for stabilization by oxidation, such as copper roofs and flashing, are exempt from this requirement. [\(IPMC 304.1\)](#)

(A) The following standards are established for exterior features of structures:

- (1) Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. [\(IPMC 304.3\)](#)
- (2) Structural members. All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads. [\(IPMC 304.4\)](#)
- (3) Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition to prevent the entry of insects and vermin. [\(IPMC 304.5\)](#)
- (4) Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials and maintained to prevent deterioration. [\(IPMC 304.6\)](#)
- (5) Roofs and drainage. The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts

shall be maintained in good repair and free from obstructions. Water from roofs shall not be discharged in a manner that creates a public nuisance. [\(IPMC 304.7\)](#)

- (6) Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition. [\(IPMC 304.8\)](#)
- (7) Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or other surface treatments. [\(IPMC 304.9\)](#)
- (8) Stairways, decks, porches, and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained in a structurally sound condition, with proper anchorage and support capable of handling normally imposed loads. [\(IPMC 304.10\)](#)
- (9) Chimneys and towers. All chimneys, cooling towers, smokestacks, and similar appurtenances shall be maintained in a structurally safe and sound condition. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or other surface treatments. [\(IPMC 304.11\)](#)
- (10) Handrails and guards. Every handrail and guard shall be firmly fastened in a manner capable of supporting normally imposed loads and shall be maintained in good condition. [\(IPMC 304.12\)](#)
- (11) Window, skylight, and door frames. Every window, skylight, door, and frame shall be kept in sound condition, in good repair and weather tight. [\(IPMC 304.13\)](#)
- (12) Glazing. All glazing materials shall be maintained free from cracks and holes. [\(IPMC 304.13.1\)](#)
- (13) Operable windows. Every window, other than a fixed window, shall be easily operable and capable of being held in both open and closed positions by window hardware. [\(IPMC 304.13.2\)](#)
- (14) Insect screens. Every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are

employed. Where required and installed, screens shall be maintained in good condition, free of holes and other openings. [\(IPMC 304.14\)](#)

(15) Doors. All exterior doors, door assemblies, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. [\(IPMC 304.15\)](#)

**24.5-2 Vacant or unoccupied structures.** Vacant or unoccupied structures shall be maintained in accordance with the standards provided in section 24.4 above. Such structures shall be further maintained to prohibit unauthorized entry.

**24.5-3 Structures undergoing demolition.** Structures undergoing demolition shall be maintained to protect public safety, health, and welfare. Demolition operations shall:

- Minimize the off-site release of dust and other particulates.
- Be maintained and secured to not create an attractive public nuisance.
- Remove salvage materials, debris, and rubble periodically to maintain safe on-site working conditions.
- Result in full and complete post-demolition cleanup, including the removal of all debris and rubble and maintaining compliance with the property maintenance standards in section 24.6 below. As part of demolition permitting, the Town requires a demolition permit be obtained from the Town of Jamestown and the Town may require the posting of performance bonds or other financial guarantees as deemed necessary to ensure compliance with these regulations.

**24.5-4 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible. Unsafe structures shall be subject to the enforcement procedures provided in section 24.6 below.

## **24.6 Maintenance of Property and Premises.**

**24.6-1 General.** All exterior property and premises shall be maintained in a clean, safe, and sanitary condition.

(A) Specific standards for exterior features and situations are provided as follows:

- (1) Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, except for approved retention areas and reservoirs. [\(IPMC 302.2\)](#)
- (2) Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions. Public sidewalks shall not be blocked by trees and other

vegetation located on adjoining private properties and shall be kept clear of weeds, litter, and other potential obstructions by the adjoining private property owner. [\(IPMC 302.3\)](#)

- (3) Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of nine inches other than trees, shrubs, and cultivated flowers and gardens. [\(IPMC 302.4\)](#)
- (4) Rodent and insect harborage. All structures and exterior property shall be kept free from rodent and insect harborage and infestation. Where rodents or insects are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and insect harborage and prevent reinfestation. [\(IPMC 302.5\)](#)
- (5) Exhaust vents. Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant. [\(IPMC 302.6\)](#)
- (6) Accessory structures. All accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound and in good repair. [\(IPMC 302.7\)](#)
- (7) Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes. [\(IPMC 302.8\)](#)
- [\(8\)](#) Defacement of property. No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving, or graffiti unless specifically allowed by the Town. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair in a reasonably expeditious fashion, not to exceed 30 days. [\(IPMC 302.9\)](#)
- (9) Swimming pools, hot tubs, and spas. Swimming pools, hot tubs, and spas located exterior to a structure shall be maintained in a clean and sanitary condition and in good repair. Private swimming pools, hot tubs, and spas containing water more than 24 inches in depth shall be surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool, hot tub, or spa. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-

closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches from the gatepost. No such enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier. [\(IPMC 303.1\)](#)

(10) Accumulation of rubbish or garbage. All exterior property and premises shall be free from any accumulation of rubbish or garbage, including trash, junk, debris, dead vegetation, building materials, accumulations of newspapers, circulars, and flyers, and discarded personal items such as furniture, clothing, and large and small appliances. Every occupant of a structure shall dispose of all rubbish and garbage in a clean and sanitary manner by placing such rubbish and garbage in approved containers supplied by the owner of every occupied premises. The owner of the property or premises shall be responsible for the removal of rubbish and garbage. [\(IPMC 308.1\)](#)

(11) Refrigerators and other large appliances. Refrigerators and other large appliances not in operation shall not be discarded, abandoned, or stored in an exterior location on any premises. Refrigerators shall not be placed in an exterior location for pick-up and disposal by the Town of Jamestown without removal of the doors. Refrigerators and other large appliances shall not be placed in an exterior location for more than five (5) days for pick-up and disposal by the Town of Jamestown. [\(IPMC 308.2.2\)](#)

(12) Outdoor storage of equipment, appliances, raw materials for manufacturing, items being recycled, vehicles undergoing repair or dismantling, and similar items used or sold in the conduct of a business shall be screened from view from areas off the premises by fencing or landscaping. Goods or other items that are part of approved outdoor displays, such as cars for sale at a new or used car lot, seasonal plants, and vegetables for sale at a lawn and garden store, etc., shall be exempt from this requirement.

## **24.7 Administration**

**24.7-1 Responsibility for administration.** The Town of Jamestown Planning Director, or his/her designee, shall be responsible for the administration of these regulations. Such duties shall include the review and evaluation of complaints regarding nuisances and unmaintained properties, the inspection of structures, properties, and premises perceived to be in violation of these regulations, the pursuit of remedies for violations of these regulations, and the assignment of penalties as specified in these regulations for the purpose of obtaining regulatory compliance.

**24.7-2 Review and evaluation of complaints.** Citizen complaints regarding nuisances and unmaintained properties shall be presented in writing to the Planning Director. Upon receiving the complaint, the Planning Director shall review and evaluate said complaint. This review and evaluation may include inspection(s) of the subject property, meetings with the property owner(s), and other actions as needed to prepare a thorough evaluation of the complaint. Upon completion of the evaluation, the Planning Director shall prepare a report detailing his/her evaluation for

presentation to the Jamestown Town Council. This report shall include a recommendation regarding action to be taken in response to the complaint. This report shall be forwarded to the Town Council for review and action at a regularly scheduled meeting. Upon reviewing the report, the Town Council shall direct staff regarding action to be taken in response to the complaint.

**24.7-3 Inspections.** The Planning Director or designee shall personally make all of the required inspections or shall accept reports of inspection by qualified third-party agencies or individuals. All reports of such inspections shall be in writing and shall be certified by a responsible officer of such qualified agency or individual. The Planning Director or designee is authorized to engage such expert opinion as deemed necessary to satisfactorily administer these regulations. Payment of inspection costs associated with third-party agencies or individuals shall be assigned to the owner of record of the subject structure, property, or premises upon determination that a violation exists and shall be so noted in the notice of violation.

**24.7-4 Right of entry.** In carrying out these duties, the Planning Director or designee is authorized to enter such structures, properties, or premises at reasonable times. If entry is refused or not obtained, recourse shall be pursued as provided by law.

**24.7-5 Relief from personal liability.** Any official, officer, employee, or authorized qualified third-party agency or individual charged with the enforcement of this code, while acting for the Town, shall not thereby be rendered liable personally or professionally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of the official duties described herein.

## **24.8 Enforcement.**

**24.8-1 General enforcement.** Except for unsafe structures, a violation of these regulations shall be enforced as provided below. In no case shall violations of this ordinance be considered criminal offenses except as specifically provided by statute.

**24.8-2 Notice of violation.** The Planning Director shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to correct the violation within 30 days after receipt of the notice of violation. The violator may be the property owner, the leasehold tenant, or occupant, or any combination thereof deemed necessary to ensure compliance with these regulations.

**24.8-3 Failure to comply with a notice of violation.** Any person who fails to comply with a notice of violation of any of the provisions of this Article shall be subject to a civil penalty of five hundred dollars (\$500.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The decision of the Planning Director to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested, or by any means authorized under G.S. 1A-1, Rule 4.

**24.8-4 Appeal to Superior Court.** Every decision of the Planning Director to assess a civil penalty shall be subject to review by the Guilford County Superior Court by proceedings in the nature of



certiorari. Any petition for review by the Superior Court shall be filed with the clerk of Superior Court within 30 days after the decision of the Planning Director to assess a civil penalty.

**24.8-5 Failure to Appeal and/or Pay.** Any civil penalty assessed a person who violates the provisions of these regulations shall be recovered by the Town in a civil action in a debt, to be brought in the Guilford County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period after he or she has been cited for the violation.

**24.8-6 Unsafe structure enforcement.** An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible. Such structures shall be condemned and removed in accordance with the provisions of G.S. 160D-1119 through 160D-1125 and this article.

**24.8-7 Posting.** Upon determination that an unsafe structure exists, the Planning Director shall post a notice of condemnation in conspicuous place on the exterior wall of the building as required in G.S. 160D-1119. Such notice may order the structure closed to the extent necessary to not constitute an attractive nuisance.

**24.8-8 Removal of notice of condemnation.** Any person removing a notice of condemnation posted by the Planning Director shall be guilty of a civil penalty as specified in G.S. 160D-1120.

**24.8-9 Vacation.** Any occupied structure condemned and posted by the Planning Director shall be vacated as ordered by the Planning Director.

**24.8-10 Notice; failure to take corrective action.** If the owner of a structure that has been condemned as unsafe pursuant to G.S. 160D-1119 fails to take prompt corrective action, the Planning Director shall give him written notice, by certified or registered mail to his last known address or by personal service. The notice shall specify that the building or structure is in a condition that appears to meet one or more of the following conditions:

- Constitutes a fire or safety hazard.
- Is dangerous to life, health, or other property.
- Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
- Tends to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

The notice shall further specify that a hearing will be held before the Planning Director at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and that following the hearing, the Planning Director may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

**24.8-11 Alternative notice.** If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the Town at least once not later than one week prior to the hearing.

**24.8-12 Order to take corrective action.** If, following the hearing described above, the Planning Director finds that the structure is unsafe, he or she shall issue an order that specifies the corrective action that must be taken by the property owner under a timeframe that complies with G.S. 160D-1122.

**24.8-13 Appeal of order to take corrective action.** The property owner may appeal the order to take corrective action in accordance with the provisions of G.S. 160D-1123.

**24.8-14 Failure to comply with order.** Any person who fails to comply with an order to take corrective action shall be subject to a civil penalty of up to \$500 per day, with each day on which action to comply is not taken considered a separate violation. The Town may enforce the order as provided in G.S. 160D-1124.

## **24.9 NON-RESIDENTIAL BUILDING CODE, MINIMUM STANDARDS FOR NONRESIDENTIAL BUILDINGS AND STRUCTURES**

### **24.9-1 JURISDICTION AND AUTHORITY**

- (A) Authority. Pursuant to G.S. § 160D-1129 the Town Council hereby adopts these standards for nonresidential buildings and structures to ensure that said buildings and structures meet minimum maintenance, sanitation, and safety standards. These standards shall apply in addition to the requirements of the North Carolina State Building Code and any other applicable regulations.
- (B) Jurisdiction. The provisions of this section shall apply within the corporate limits and the Extra Territorial Jurisdiction (ETJ) of the Town of Jamestown.
- (C) Inspector Appointed, Powers and Duties. The Jamestown Planning Director or their designee is hereby authorized to implement and enforce the provisions this ordinance, "Minimum Standards for Nonresidential Buildings and Structures." The Minimum Housing Inspector shall be referred to herein as the "Inspector." Except as provided herein, the Inspector shall have the same powers and duties when enforcing minimum standards for nonresidential buildings and structures as they have when enforcing the Minimum Standards Code.

### **24.9-2 MINIMUM STANDARDS**

- (A) Compliance with the North Carolina State Building Code. Every nonresidential building and structure shall comply with applicable provisions of the North Carolina State Building Code, especially those provisions that pertain to the prevention of conditions that are dangerous and injurious to the public health, safety, and welfare.
- (B) Structural Condition.
  - (1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
  - (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
  - (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
  - (4) Every outside and inside stair, porch, landing, loading dock and any other appurtenance shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
  - (5) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained to be weather tight and watertight.
  - (6) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a condition or location as to constitute a fire hazard.
  - (7) There shall be no use of the ground for floors, or wood floors directly on the ground.<sup>[1]</sup><sub>SEP</sub>
- (C) Plumbing system.
  - (1) Each nonresidential building or structure shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system, if such connections are required by the North Carolina State Building Code.
  - (2) Each nonresidential building or structure shall contain at least the minimum number of toilets and other sanitary facilities required by the North Carolina State Building Code.

- (3) All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
  - (4) All plumbing fixtures shall meet the standards of the North Carolina State Building Code and shall be maintained in a state of good repair and in good working order.
- (D) Heating and Electrical System.
- (1) The heating and electrical systems of nonresidential buildings and structures shall comply with the North Carolina State Building Code.
  - (2) Every public hall and stairway in every multi dwelling shall be always adequately lighted by electric lights when natural daylight is not sufficient.
- (E) Safe and Sanitary Maintenance.
- (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof, shall be kept in sound condition and good repair; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
  - (2) Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
  - (3) Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
  - (4) Interior walls and ceilings of all finished interior spaces shall be finished of suitable materials, which will, by use of reasonable commercial methods, promote sanitation and cleanliness.
  - (5) Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof, and shall be kept in sound working condition and good repair.
  - (6) Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained to be reasonably impervious to water and to permit the floor to be easily kept in a clean and sanitary condition.
  - (7) Every supplied facility, piece of equipment or utility which is required under this section, or the North Carolina State Building Code shall be so constructed or installed that it will function safely and effectively; and shall be maintained in satisfactory working condition.
  - (8) Every yard shall be properly graded to obtain thorough drainage and to prevent the accumulation of stagnant water.
  - (9) Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
  - (10) Every dwelling unit shall be provided with adequate means of egress as required by the North Carolina State Building Code.
- (F) Control of Insects, Rodents, and Infestations.
- (1) Screens. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall be supplied with screens installed.
  - (2) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.
  - (3) Infestation.

- (4) Every occupant shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a nonresidential building or structure containing more than one unit shall be responsible for the extermination whenever his or her unit is the only one infested.
- (5) Whenever infestation is caused by failure of the owner to maintain a nonresidential building or structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner.
- (6) Whenever infestation exists in two or more nonresidential units or in the shared or public parts of any nonresidential building or structure containing two or more units, extermination shall be the responsibility of the owner.
- (G) Rubbish and garbage storage and disposal. Every nonresidential building or structure shall store rubbish and garbage as required by town ordinances, and the owner or occupant of the building or structure shall be responsible for the removal of rubbish and garbage.
- (H) Responsibilities of Owners and Occupants.
  - (1) Public areas. Every owner of a nonresidential building or structure with two or more units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the building or structure and premises thereof.
  - (2) Cleanliness. Every occupant of a nonresidential building or structure shall keep in a clean and sanitary condition that part of the building or structure and premises thereof which he or she occupies and controls.

**24.9-3 INVESTIGATION, HEARING AND ORDER**

- (A) Investigation. Whenever it appears to the Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this code, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made with the permission of the owner, owner's agent, a tenant, or other person legally in possession of the premises or pursuant to a duly issued administrative search warrant issued in accordance with G.S. § 15-27.2.
- (B) Complaint and Hearing. If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall contain the following:
  - (1) The charges.
  - (2) A notice that a hearing will be held before the Inspector (or his or her designated agent) at a place within Guilford County scheduled not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.
  - (3) That the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and
  - (4) That the rules of evidence prevailing in courts of law or equity shall not be controlling in hearing before the Inspector.
- (C) Hearing and Order.
  - (1) Hearings shall be quasi-judicial in nature and shall be conducted in the same manner as hearings provided for in Chapter 80.

- (2) If, after notice and hearing, the Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the public is jeopardized for failure of the property to meet the minimum standards established by this code, the Inspector shall issue an order that states the following:
- (3) The order shall provide writing findings of fact in support of the Inspector's determination. <sup>[1]</sup><sub>[SEP]</sub>
- (4) The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations of this subsection. <sup>[1]</sup><sub>[SEP]</sub>
- (5) The order shall state that any person aggrieved by the order may appeal the decision to the Zoning Board of Adjustment within thirty (30) days from the rendering of the decision or service of the order.

(D) Limitations on Orders.

- (1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this code or to vacate and close the nonresidential building or structure for any use.
  - (2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this code.
  - (3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.
- (E) Relief from personal liability. Any official, officer, employee, or authorized qualified third-party agency or individual charged with the enforcement of this code, while acting for the Town, shall not thereby be rendered liable personally, and is hereby relieved from all personal and professional liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of the official duties described herein.

**24.9-4 ACTION BY THE TOWN COUNCIL UPON FAILURE TO COMPLY WITH THE ORDER**

(A) Failure to Comply with an Order to Repair, Alter, Improve or To Vacate and Close.

- (1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Town Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of these sections with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Guilford County Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index.
- (2) Following the adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed, as provided in the ordinance. The Inspector may cause to be posted on the main entrance of any nonresidential building or

structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(B) Failure to Comply with an Order to Remove or Demolish.

- (1) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Town Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of these sections with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by this code. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Guilford County Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index.
- (2) Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

(C) Action by the Town Council upon Abandonment of Intent to Repair. If the Town Council has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed, and the building or structure has been vacated and closed for a period of two (2) years pursuant to the ordinance or order, the Town Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within ninety (90) days; or
- (2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within ninety (90) days.
- (3) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before the Town Council may act under this subsection. The ordinance shall be recorded in the office of the Guilford County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.

**24.9-5 SERVICE OF COMPLAINTS AND ORDERS**

- (A) Complaints or orders issued by the Inspector pursuant to these sections shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unable to be served, but the regular mail is not returned by the post office within ten (10) days

after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

- (B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes documentation to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time that personal service would be required under these sections. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

#### **24.9-6 LIENS**

- (A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- (B) The amount of the costs of repairs, alterations, or improvements, or vacating or closing, or removal or demolition by the Inspector shall also be a lien on any other real property of the owner located within the town limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (C) If the nonresidential building or structure is removed or demolished by the Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the Guilford County Superior Court by the public officer, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court.

#### **24.9-7 EJECTMENT**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Inspector may file a civil action in the name of the town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Guilford County Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town Council pursuant to these sections to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated, and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. § 7A- 228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the Town Council has ordered the Inspector to proceed to exercise his or her duties pursuant to these sections to vacate and close or remove and demolish the nonresidential building or structure.

#### **24.9-8 CIVIL PENALTIES**

Civil penalties levied shall be in accordance with Section 10.99 and any other applicable provisions of this Code.



#### **24.9-10 APPEALS**

An appeal from any decision or order of the Inspector may be taken to the Town Council by any person aggrieved thereby or by any officer, Town Council. The procedure for an appeal shall be in accordance with the code of ordinance, and any person aggrieved by a decision or order of the Inspector shall have the remedies provided in G.S. § 160D-305.

#### **24.9-11 ABANDONED STRUCTURES**

- (A) As authorized by G.S. § 160D-1201(b), the Town Council may determine that any abandoned structure within the corporate limits of the town or its extraterritorial jurisdiction is a health or safety hazard because of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (B) If the Town Council determines that an abandoned structure is a health or safety hazard, the Council may require the property owner to repair, close or demolish the structure pursuant to the same provisions and procedures as are prescribed under the Jamestown Minimum Housing Code for the repair, closing or demolition of dwellings found to be unfit for human habitation.
- (C) The Town Council may determine that an abandoned structure is a health or safety hazard only after a quasi-judicial hearing on the matter. Using the procedure set forth in the code of ordinance, the town shall provide notice to the property owner and any mortgage holder of record not less than ten (10) nor more than thirty (30) days prior to the hearing. The owner or any party in interest shall have the right to submit written evidence prior to the hearing and to give testimony in person, or otherwise, during the hearing.
- (D) This authority provided by this section shall be supplemental to and may be used in lieu or of or in conjunction with any other authority provided in this code.

#### **24.10 NON-RESIDENTIAL MAINTENANCE CODE**

##### **24.10-1 PURPOSE.**

It is the purpose of the provisions of this chapter to provide a just, equitable and practicable method, whereby non-residential buildings, or structures which from any cause, endanger the life, limb, health, morals, property, safety or welfare of the public or their occupants, diminish property values, exhibit characteristics of abandonment or neglect, or detract excessively from the appropriate appearance of the non-residential area, may be required to be repaired, vacated or demolished. The provisions of this code are cumulative with and in addition to any other remedy provided by law, including the current editions of standard codes adopted by the town.

##### **24.10-2 SCOPE.**

The provisions of this code shall apply to all non-residential buildings and structures which are now in existence, or which may be built within the town limits or annexed therein, and to all non-residential lands within the corporate jurisdiction of the Town of Jamestown and its extraterritorial jurisdiction.

##### **24.10-3 APPLICABILITY.**

- (A) Every non-residential building or structure and the premises on which it is situated, used or intended to be used for non-residential occupancy shall comply with the provisions of this chapter, whether or not the building shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building, or for the installment or repair of equipment or facilities prior to the effective date of this chapter.
- (B) This chapter establishes minimum standards for the initial and continual occupancy and use of all non-residential buildings and does not replace or modify standards otherwise established for the

construction, repair, alteration or use of the building equipment or facilities contained therein except as provided.

- (C) Where there is mixed occupancy, any commercial business use therein shall be nevertheless regulated by and subject to the provisions of this chapter.

#### **24.10-4 CONFLICTING PROVISIONS.**

In any case where the provisions of this chapter impose a higher or lower standard than that set forth in any other ordinance of the town or under the laws of the state, the higher standard shall prevail. Interpretation shall be the authority of the Planning Director or their designee.

#### **24.10-5 COMPLIANCE.**

- (A) It shall be the duty of each owner and each operator of a non-residential building or premises within the town to comply with the regulations and requirements set forth in this chapter. No license, permit or certification of occupancy shall be issued unless and until all applicable sections of this chapter have been complied with.
- (B) No land or building or combination thereof shall be used in a manner inconsistent with or in conflict with the requirements of this chapter.

#### **24.10-6 DEMOLITION OF NON-RESIDENTIAL BUILDINGS.**

Where a building is under the jurisdiction of the code, the building may be demolished by the owner provided that the following requirements are met:

- (A) The owner obtains a demolition permit from the Town of Jamestown.
- (B) All sewer, gas, water and similar taps or connections are properly closed and disconnected.
- (C) All debris from the building is removed from the site. This requirement is for the removal of all debris that is above the street level of the building.
- (D) The lot is graded to a smooth, even, finished grade, and free from building material, debris, holes and/or depressions. Where building debris remains on the site below street level, the owner must back fill the lot with 12 inches of clean fill which shall be graded to a smooth, even finished grade.
- (E) Where walls of adjacent buildings become exposed as a result of the demolition, the walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed, or bricked so as not to detract from the aesthetics and value of the adjacent property and weather proofed to prevent deterioration of the wall.

#### **24.10-7 BUILDINGS AND PREMISES DAMAGED.**

- (A) Any building or premises damaged by fire, storm, collapse or an act of nature to such an extent that the cost of repair and reconstruction does not exceed 50% of the physical valuation of the entire structure at the time the damage occurred, the damaged portions of the building or premises may be razed or shall be secured to prevent unauthorized entry and repaired in a manner that complies in all respects with all ordinances of the town related to new buildings.
- (B) The razing or repair work shall begin within 120 days of the damage. Extensions of this time requirement may be issued by the Board of Adjustments and appeals upon showing of cause by the property owner.

#### **24.10-8 DUTIES AND RESPONSIBILITIES OF OWNER**

- (A) Relationship of Duties and Responsibilities to Occupancy.
  - (1) The provisions of this chapter that apply to the exterior or exterior components of a structure or building shall be complied with whether the structure or building is occupied or vacant. All

unoccupied or vacant structures or buildings shall be secured by the owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation, including roosting birds.

(B) Nuisances and Hazards.

It shall be the duty and responsibility of the owner of non-residential premises to see that the premises under the control of the owner are maintained to ensure that there is compliance with the following provisions of this section:

- (1) The premises are free of all nuisances and any hazards to the safety of the occupants, customers or other persons utilizing the premises or to pedestrians passing thereby.
- (2) The premises are free of loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof. (State Building Code Reference, § 105.12, Unsafe buildings)
- (3) The premises are free of holes, excavations, breaks, projections, or obstructions on walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to and used by persons on the premises. All the holes and excavations shall be filled and repaired, walks and steps replaced, and other conditions removed where necessary to eliminate hazards or unsafe conditions with reasonable dispatch by the owner upon their discovery.

(C) Condition of Exterior of Premises and Structures.

- (1) The exterior of the premises and structure shall be maintained in good repair and free from deterioration so as not to constitute a nuisance.
- (2) All surfaces shall be maintained free of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose, or broken plastic or other similar hazardous conditions. (State Building Code reference, § 105.12, Unsafe buildings)
- (3) All structures and decorative elements of building exteriors shall be repaired or replaced in a workmanlike manner to match as closely as possible the original materials and construction techniques.

(D) Soundness of Floors, Interior Walls and Ceilings.

All floors, interior walls and ceilings of every structure shall be structurally sound and shall be maintained in a good condition compatible with its business use, and where open to the public shall be maintained in a condition so as not to constitute a hazard to the public.

(E) Structurally Deficient Building in Rear.

Structures at the rear of buildings attached or unattached to the principal structure, which are found by the Planning Director or their designee to be structurally deficient, shall be properly repaired or demolished.

(F) Removal of Miscellaneous Elements on Building Walls, Roofs and Surrounding Premises.

All existing miscellaneous elements on building walls and roofs and surrounding premises, such as empty electrical or other conduits, unused sign brackets and the like shall be removed.

(G) Walls.

- (1) All foundation walls shall be kept structurally sound, and capable of bearing imposed loads safely. (State Building Code reference, § 1302.3, Concrete footings and § 1302.5, Foundation walls)
- (2) All material used to maintain or reconstruct a wall or part thereof, including the application of sidings or other surfacing material, shall be of standard quality.

- (3) Where a wall of a building has become exposed as a result of demolition of adjacent buildings the wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed, or bricked so as not to detract from the aesthetics and value of adjacent property and weather proofed, if necessary, with construction material to prevent deterioration of the wall.

(H) Windows.

- (1) All windows must be tight fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints, or broken or loose mullions or muntins shall be replaced. All broken and missing windows shall be replaced with glass or plexiglass. All exposed wood shall be repaired and painted.
- (2) All windows shall be maintained free of broken glass. Where a window glass larger than four square feet becomes cracked to an extent that the largest single portion of the window free of a crack is less than 80% of the total surface area of the window glass, the window glass shall be replaced by a pane free of cracks.
- (3) All openings originally designed as windows shall be maintained as windows, complete with sills, lintels, frame, and glass, unless specifically approved by the Fire Chief for enclosure. Where the Fire Chief approves the enclosure of a window, it must be so enclosed by either bricking the opening, blocking the opening with concrete blocks, and stuccoing the exterior, or by boarding up the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion and painted or stained to properly conform with the other exterior portions of the building.

(I) Painting.

- (1) All exterior surfaces which require paint or sealing in order to protect the underlying surface from deterioration shall be so painted or sealed.
- (2) All exterior surfaces which have been painted shall be maintained free of peeling and flaking. Where 15% or more of the aggregate of any painted wall shall have peeling or flaking or previous paint worn away, the entire wall shall be repainted.

(J) Signs.

All advertising structures and awnings and their accompanying supporting members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. All non-operative signs shall be repaired or shall, with their supporting members, be removed forthwith. In the event the signs, billboard, marquees, or awnings are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event the awnings or marquees are made of cloth, plastic or of a similar material, the awnings or marquees shall be maintained so as not to show evidence of excessive tearing, ripping, or other holes which diminish their function and cause unsightly conditions. Nothing herein shall be construed to authorize any encroachments on streets, sidewalks, or other parts of the public domain.

(K) Washrooms.

- (1) All washrooms and water closet compartment floors shall be surfaced with water-resistant material and shall be always kept in a dry and sanitary condition.
- (2) All washrooms shall be provided with permanently installed artificial lighting fixtures with a switch and wall plate so located and maintained that there is no danger of short circuiting from water, from other bathroom facilities or from splashing water. (National Electrical Code reference, Protection against corrosion, § 300-6, and Switches, § 380-4)

(L) Garbage.

- (1) There shall not be stored or allowed to accumulate flammable or combustible liquids or other materials on the premises unless they are of a type approved for storage by the regulations of the National Fire Protection Association, and then only in quantities as may be prescribed by the regulations. (Fire Protection Code reference, Order to eliminate injurious or hazardous conditions, and State Building Code.
- (2) No garbage or solid waste shall be stored or allowed to accumulate on the premises unless contained in trash receptacles.

(M) Appurtenances.

- (1) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases (State Building Code reference, Chimneys, fireplace stoves, fireplaces and venting systems)
- (2) All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects. (State Building Code reference, Outside stairs, and exterior balconies, § 1108, and Fire escapes, § 1007.4)
- (3) All cornices shall be made structurally sound, and rotten or weakened portions shall be removed and/or replaced to match as closely as possible the original patterns. All exposed wood shall be painted. (State Building Code reference, § 710)
- (4) Gutters and downspouts shall be replaced or repaired as necessary and shall be neatly located and securely installed.
- (5) Where a parking lot is constructed as part of a non-residential building or as a business itself, the parking lot, and all curbing, surfacing, sidewalks, and other parts thereof shall be maintained free of broken surfaces, holes, or other similar conditions. All non-residential parking lots so described herein shall be repaired or replaced with like material.
- (6) Where landscaping has been incorporated in the development plan of a non-residential building or where landscaping has been required by the town as part of a development plan, including parking plan, the landscaped areas shall be maintained in a manner to equal and reflect the original landscaping approved for the development plan.
- (7) Where curb cuts are abandoned due to new construction, change of access or general discontinuous use, the curb cut shall be closed and replaced with a standard sidewalk and curb and gutter arrangement.
- (8) Damage to public sidewalks or curbs and gutters located in the public right-of-way shall be repaired or replaced at no expense to the town when the damage is caused by vehicles making deliveries to the commercial premises under the control of the owner.

**24.10-9 DUTIES AND RESPONSIBILITIES OF OPERATOR**

(A) Ensuring Compliance.

It shall be the duty and responsibility of the operator to ensure compliance with this subchapter.

(B) Safe and Sanitary Condition of Premises.

All parts of the premises under the control of the operator shall be kept in a safe and sanitary condition consistent with the business use, and the occupant shall refrain from performing any acts which would render other parts of the premises unsafe or unsanitary, or which would obstruct any adjacent owner or operator from performing any duty required, or from maintaining the premises in a safe and sanitary condition.

(C) Elimination of Infestation.

Every operator shall be responsible for the elimination of infestation in and on the premises, subject to the operator's control.

(D) Maintenance of Plumbing Fixtures.

Every operator shall maintain all plumbing fixtures in a safe and sanitary condition.

(E) Garbage Containers.

No garbage or other solid waste shall be stored or allowed to accumulate on the premises unless contained in receptacles which are in accordance with § 50.05.

(F) Repair of Damage to Public Right-of-Way.

Damage to public sidewalks or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the town when the damage is caused by vehicles making deliveries to the business under the control of the operator.

(G) Notifying Owner of Defects.

Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the operator affected thereby shall, upon learning of the defect, provide notice to the owner.

**24.10-10 ADMINISTRATION AND ENFORCEMENT**

(A) Maintenance Code Administrator.

- (1) The Planning Director or their designee shall act as the Maintenance Code Administrator. It shall be their duty and responsibility to enforce this chapter and to legally proceed against each person found in violation of the requirements of this chapter.
- (2) All inspections, regulations, and enforcement of violations of the provisions of this chapter, unless expressly stated to the contrary, shall be under the direction and supervision of the Administrator.
- (3) (All buildings and premises as set forth in this chapter are subject to inspections by the Administrator or the Administrator's designated representatives. Upon presentation of proper identification and credentials to the owner, agent, or occupant in charge of the property and/or premises, and securing the person's oral or written permission, the Administrator and/or representative may enter and make any inspections as necessary during all reasonable hours.
- (4) If permission for entry for the purpose of inspections is denied, and no emergency exists, the Administrator shall, after presentation of probable cause, procure a court order from the district court judge.
- (5) In cases of emergency where extreme hazards are known to exist which may involve potential loss of life or severe property damage, the above limitations will not apply.
- (6) Relief from personal liability. Any official, officer, employee, or authorized qualified third-party agency or individual charged with the enforcement of this code, while acting for the Town, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property because of an act required or permitted in the discharge of the official duties described herein.

(B) Board of Adjustments and Appeals.

- (1) There is hereby established a Board to be called the Board of Adjustments and Appeals.

- (2) The Board of Adjustments and Appeals shall be that authorized, established, and appointed body responsible for hearing appeals and requests for variance, created and authorized by this chapter.
- (3) The procedures, rules and processes established for the Board of Adjustment shall apply.
- (4) The duties of the Board of Adjustments and Appeals shall be to:
- (5) Consider and determine appeals whenever it is claimed that the true intent and meaning of this chapter or any of the regulations hereunder have been misconstrued or wrongly interpreted or applied by the Maintenance Code Administrator or the Administrator's representative.
- (6) Grant, in cases where the application of the requirement of this code in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, reasonable extensions of time not to exceed six months from date of the notice. No subsequent appeal shall be considered where an appeal has been previously decided involving the same building or premises and the same citation unless the appellant can demonstrate to the satisfaction of the Board a change in circumstances sufficient to justify reopening the appeal.
- (7) All decisions of the Board of Adjustments and Appeals which vary the application of any provision of this chapter or modify an order of the Administrator shall specify in what manner the variance or modification is to be made, the conditions under which it may be made and the reasons therefor. Every decision shall be in writing, and a copy of all decisions shall be promptly filed in Town Hall, and it shall be open to public inspection.

(C) Appeals.

- (1) Within 10 days following receipt of a notice of violation, any person receiving the notice, believing that the literal application of this chapter will cause undue hardship or has been misconstrued, wrongly interpreted, or applied, may appeal in writing to the Board of Adjustments and Appeals for the relief as may be granted, after investigation of the grounds thereof, by way of a reasonable extension of time or a variation from strict compliance with the provisions of this chapter. The circumstances justifying the findings related to hardship are:
  - (2) Inability to immediately comply due to severe financial distress.
  - (3) The unavailability of services or equipment with which to comply, without fault of the applicant and/or
  - (4) Other extenuating circumstances showing a good faith intention on the part of the applicant or another to comply when able to do so.
- (5) The appeal shall be on a form provided by and shall be addressed to the Planning Director or their designee, where proper forms will be prepared and forwarded to the Chairman of the Board of Adjustments and Appeals, who will set the date and time of hearing and so notify the applicant. This section shall not be construed to apply to any situation regarded by the enforcement authority as a real and immediate threat to public safety and health. Any person aggrieved by the decision of the Board may petition any court of competent jurisdiction within the county. Any appeal of this sort must be filed with the court within 15 days from the date of the Board's decision or it shall be considered abandoned.
- (6) To defray the cost of processing an appeal fee is to be set by the Board in the annual budget ordinance shall be required. All fees are payable to the town and must be paid prior to processing the appeal.

(D) Amendments.

The Town Council may from time to time amend, supplement, or change the provisions and requirements of this code. Any amendment shall be by ordinance of the Board. Initiation of any amendment may be by the Town Council, Planning Board, or by a private citizen.

(E) Violations.

- (1) Whenever the Maintenance Code Administrator or any other authorized official determines that there exists a violation of any provision of this chapter, the Administrator shall give notice of the violation to the person responsible therefor or to the person's agent or representative, and order compliance.
- (2) The notice and order shall be in writing; specify in detail the violations, together with the respective sections of this chapter being violated; setting forth 30 days within which to correct the violations; contain an outline of remedial action which, if taken, will effect compliance.
- (3) Service of the notice shall be by delivery personally to the owner or operator of the property or the person responsible; by leaving the notice at the usual place of abode or business of the owner, operator or the person's agent, or by depositing the notice in the United States post office addressed to the owner or operator or the person's agent or person responsible at the last known address with postage prepaid thereon, and certified or registered; or in the event service of the notice cannot be obtained in one of the above methods by posting and keeping posted for 24 hours a copy of the notice in a conspicuous place on the premises where the violation has occurred and published once a week for three weeks in a newspaper of general circulation in the town any information as is necessary to inform an owner, operator or person responsible of the location of the premises and the type of offense. No person shall deface or remove the notice without the consent of the Administrator.

(F) Penalty.

- (1) Any person, or any person's agent who shall violate a provision of this chapter, or after due notice shall fail to comply with orders issued by the Maintenance Code Administrator under the terms and provisions of this chapter shall be subjected to a civil penalty in the following amounts:
  1. For the first notice, a fine of \$150; and
  2. For the second notice, a fine of \$300.
- (2) The first notice citation shall be issued 1 day after the 120-day notice and order to correct the violation has expired, if not corrected. The second notice citation shall be issued 14 days after the first notice citation if the first notice citation has not been paid and the violation has not been corrected.
- (3) The Maintenance Code Administrator shall bring suit in small claims court for recovery. The Administrator shall represent the town in this matter.
- (4) Beginning on the fifth day after the issuance of the second notice, each day of any violation of this chapter shall constitute a separate violation punishable as separate violations of this chapter. Each day of violation will carry a civil penalty in the amount of \$75 per day.