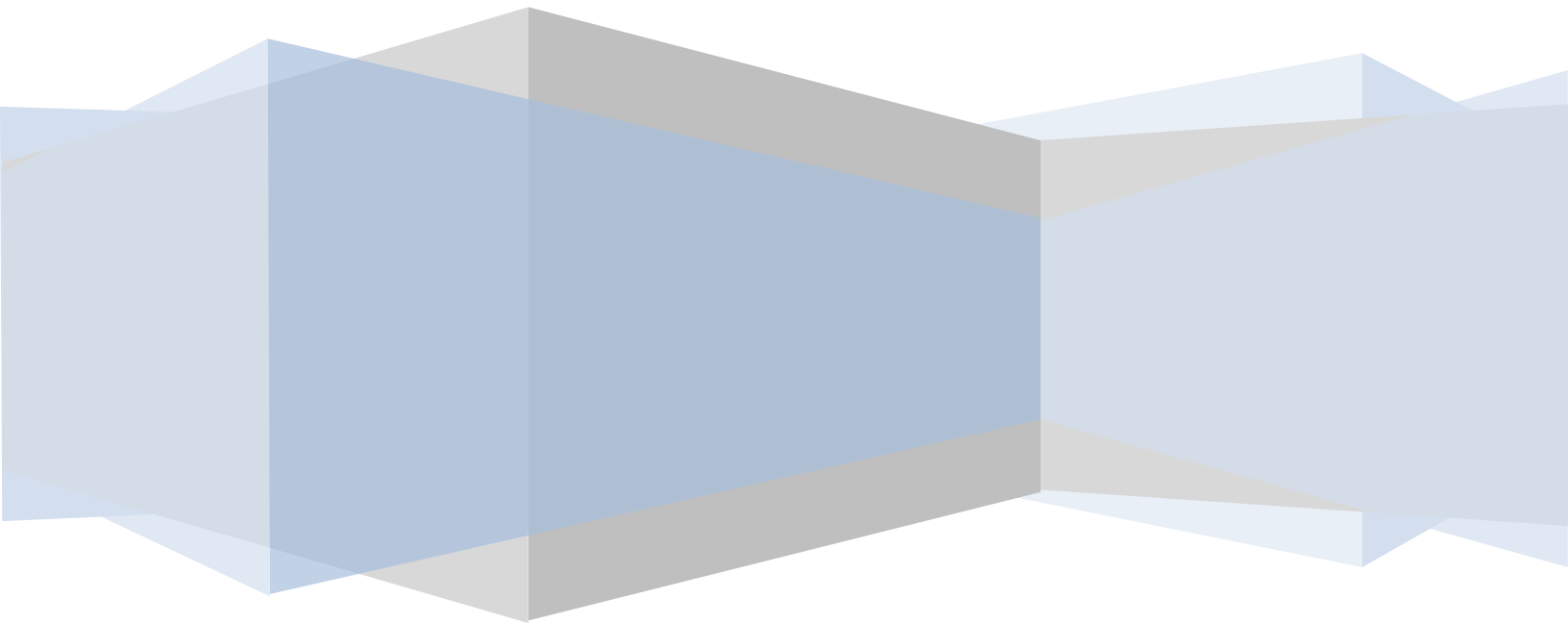


ZONING ORDINANCE

WASHINGTON PARK
NORTH CAROLINA



WASHINGTON PARK
TOWN BOARD OF COMMISSIONERS

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Lee Bowen
Belinda Cowell
Wade Dale
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July 2021

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**AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN
OF WASHINGTON PARK, IN ACCORDANCE WITH THE PROVISIONS OF
CHAPTER 160A, OF THE GENERAL STATUTES.**

WHEREAS, G. S. 160D-704 of the State of North Carolina empowers the Town to enact, administer, amend and enforce a Zoning Ordinance, and

WHEREAS, the Town Board considers it necessary to enact a Zoning Ordinance to promote health, safety, morals and general welfare of the Town, and

WHEREAS, the Town Board has appointed a Planning Board to recommend the map and text to be enforced, and

WHEREAS, as the Planning Board has divided Washington Park into districts and has prepared regulations for each district in accordance with a comprehensive plan designed to lessen congestion, secure safety from fire and storm, to promote health and the general welfare, to prevent the overcrowding of land, to facilitate the provision of water and sewerage, schools, parks, and other public requirements, and to promote the single family residential character and high degree of home ownership that undergirds the basic desirability of Washington Park as a cohesive, almost exclusively residential community, and

WHEREAS, the Planning Board has made a preliminary report and held properly advertised public hearings on the Zoning Ordinance, and submitted its final report to the Town Board, and

WHEREAS, the Town Board has given due public notice of hearings related to this ordinance and the official Zoning Map of Washington Park, and

WHEREAS, all requirements of G. S. 160D-704 regarding the preparation of the report of the Planning Board and subsequent action of the Town Board have been met;

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF WASHINGTON PARK:

This ordinance shall be known as the Zoning Ordinance of the Town of Washington Park.

The map referred to which is identified as the Official Zoning Map of Washington Park shall be known as the "Zoning Map" and is to be considered as a portion of the Ordinance.

This Zoning Ordinance has been revised to meet the requirements of NC GS 160D. All statutes referenced hereafter shall comply with said statute. This Ordinance shall become effective on July 1, 2021.

This ordinance and map have been duly adopted by the Town Board of Washington Park this _____ day of _____, _____.

_____,
Thomas B. Richter, Mayor

_____,
Denise D. Dale Town Clerk

Section 1: ZONING DISTRICTS: ZONING MAP

- 1.1 The Town is divided into zones or districts as shown on the Official Zoning Map which, together with all explanatory matter, is hereby adopted by reference and is a part of this ordinance.

Two copies of the Official Zoning Map shall be kept up to date by the Code Enforcement Officer; one shall be located at the office of the Code Enforcement Officer, the other shall be located at the Washington Park Community Building.

- 1.2 No changes shall be made except in conformity with the procedure set forth for amendment of the Zoning Ordinance, Section 8. No amendment to the Official Zoning Map shall become effective until such change has been officially mapped, and attested by the Mayor and Town Clerk.

Section 2: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES DEFINITIONS

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

- 2.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 2.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 2.3 Boundaries indicated as approximately following city limits shall be construed as following such city limits;
- 2.4 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 2.5 Boundaries indicated as parallel to or extensions of features indicated in subsections 1 thru 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 2.6 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.
- 2.7 Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- 2.8 Definitions

All words used in the present tense shall include the future tense; all words in the singular number shall include the plural number; and all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise. The words "used for" shall include the meaning "designed for". The word "structure" shall

include the word “building”. The word “lot” shall include the word “plot” and “tract”: The word “shall” is mandatory:

- a) Accessory use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.
- b) Alley. A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation.
- c) Building. See Structure.
- d) Building, height of. The vertical distance from the average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.
- e) Dwelling. A building unit designed for, or occupied exclusively by one family; dwelling units, may be attached or unattached to other dwelling units.
- f) Dwelling, Duplex or Two-Family. A building designed constructed or reconstructed and used for two-dwelling units that are connected by a common structural or load-bearing wall of at least ten lineal feet.
- g) Frontage. All the property abutting on one (1) side of a street between two (2) intersecting streets, measured along the street line.
- h) Garage, private. A building or space used as an accessory to or a part of the main building permitted in any residence district, and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
- i) Home occupation. An occupation conducted in a dwelling unit, provided that:
 - 1) No person other than members of the immediate family residing on the premises shall be engaged in such occupation;
 - 2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
 - 3) There shall be no changes in the outside appearance of the

building or premises, or other visible evidence of the conduct of such home occupation.

- 4) There shall be no sales in connection with such home occupation;
 - 5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
 - 6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- j) Lot. A parcel of land in single ownership occupied or intended for occupancy by a building together with its accessory buildings; including the open space required under this chapter. For the purpose of this chapter the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are to be erected.
- k) Lot Area. The total horizontal area included within lot lines.
- l) Lot, Corner. A lot of which at least two (2) adjoining sides abut for their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.
- m) Lot of record. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Beaufort County, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Beaufort County.
- n) Lot, depth. The depth of a lot, for the purpose of this chapter, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite main rear line of the lot.

- o) Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.
- p) Lot Lines. The lines bounding a lot as defined herein.
 - 1) LOT LINE, FRONT. In the case of an interior lot, the line separating said lot from the street. In the case of a corner or double frontage lot, the line separating said lot from that street which is designated as the front street in the request for Building Permit.
 - 2) LOT LINE, REAR. The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than thirty (30) feet long and wholly within the lot.
 - 3) LOT LINE, SIDE. A side lot line is any lot boundary line not a front lot line or rear lot line.
- q) Lot Width. The width of a lot at the required building setback line measured at right angles to its depth.
- r) Nonconforming Use. A building or land occupied by a use that does not conform to the regulations of the use zone in which it is situated.
- s) Parking Space. A plainly indicated area of not less than nine (9) feet in width and not less than eighteen (18) feet in length for the parking of one (1) motor vehicle.
- t) Principal Building. A building in which is conducted only the main or principal use on which said building is located. Any dwelling shall be deemed to be the principal building on the lot on which the same is situated.
- u) Principal Use. The primary purpose or function that a lot serves or is intended to serve.
- v) Sign. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structures, including billboard or poster panel, designed to carry the above visual information.
- w) Sign Area. The area of signs composed in whole or in part of free-standing letters, devices or sculptured matter not mounted on a

measurable surface shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another.

- x) Special Use. A special use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as a "special use," if specific provision for such special uses is made in this zoning ordinance and only after approval has been granted by the Board of Adjustment.
- y) Street. A thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and any other thoroughfare except an alley.
- z) Street Line. The line between the street and abutting property.
- aa) Structure. Anything constructed, placed or erected, the use of which requires location on the land, or attachment to something having a permanent location on the land. The term "structure" shall include mobile structures permanently anchored to the ground, storage sheds or necessary use buildings, or garages.
- bb) Structural Alterations. Any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams, or girders.
- cc) Variance. A variance is a relaxation of the terms of the zoning ordinance, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. As per NC statute, a variance request shall be considered by the Washington Park Board of Adjustment and awarded or turned down.

- dd) Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward therein.
- ee) Yard, front. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot; provided, however, that uncovered porches and overhanging or so-called canopy porches shall be deemed and considered as part of such front yard area, but a covered porch having supporting columns of any size, whether further enclosed or not, shall not be deemed or considered as part of such front yard.
- ff) Yard, side. An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.
- gg) Yard, storage, enclosed. An open unoccupied space where on all sides adjacent to the street or other public way there is located a solid fence, not transparent, or at least (10) feet in height.
- hh) Yard, rear. A yard extending across the full width of the lot and measured between the rear of the lot and on the rear line of the main building.

SECTION 3: APPLICATION OF DISTRICT REGULATIONS

In each district minimum regulation shall apply uniformly to each kind of structure or land use except as hereinafter provided.

- 3.1 No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 3.2 No building or other structure shall hereafter be erected or altered:
 - a) to exceed the height or bulk
 - b) to accommodate or house a greater number of families;
 - c) to occupy a greater percentage of lot area;
 - d) to have narrower or smaller rear yards, front yards, side yards, or other open spacesthan herein required; or in any other manner contrary to the provisions of this ordinance.
- 3.3 No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- 3.4 No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

SECTION 4: NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, NON-CONFORMING USES OF STRUCTURES AND PREMISES, AND NON-CONFORMING CHARACTERISTICS OF USE.

4.1 Intent – Within the districts established by this ordinance or amendments that may later be adopted there exist

- a) lots,
- b) structures,
- c) uses of land and structures, and
- d) characteristics of use

which were lawful before this ordinance was passed, but which would be prohibited, regulated, or restricted under the terms of this ordinance. The intent of this ordinance is to permit these non-conformities to continue until they are removed, but not to encourage their survival; also, it is the intent of this ordinance that the non-conformities shall not be enlarged upon or expanded now or in the future.

4.2 Non-Conforming Lots of Record – In the Residential District single family dwellings and customary accessory buildings may be erected on any single lot of record at the date of adoption of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lots, however, must be in separate ownership. Even though such lot may fail to meet requirements for area, width, depth or other requirements, a variance of such requirements may be obtained through the Washington Park Board of Adjustments. If two or more non-conforming lots or portions of lots with continuous frontage exist in single ownership at the time of adoption of this ordinance, they shall be considered to be an undivided parcel. No portion of said parcel may be sold, re-subdivided, or used in a manner which diminishes compliance with the dimensional requirements of this ordinance.

4.3 Non-Conforming Uses of Land (Or Land with Minor Structures Only)
Where at the time of passage of this ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this ordinance, and where such use involved no individual structure with a replacement unit exceeding \$500, the use may be continued so long as it remains otherwise lawful, provided:

- a) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this Ordinance.

- b) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
- c) If any such non-conforming use of land ceases for any reason for a period of more than 30 days, and subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- d) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

4.4 Non-Conforming Structures-

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

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

4.5 Non-Conforming Uses of Structures or of Structures and Premises in

Combination - If lawful use involving individual structures with a replacement cost of \$500 or more, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- a) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered

except in changing the use of the structure to a use permitted in the district in which it is located;

- b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
- c) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this ordinance;
- d) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
- e) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except when government action impeded access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- f) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 75 percent of the replacement cost at a time of destruction.

4.6 Uses under Special Exception Provisions Not Non-Conforming Uses

Any use which is permitted as a special exception in a district under the terms of this ordinance (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

SECTION 5: SCHEDULE OF DISTRICT REGULATIONS ADOPTED

District Regulations shall be as set forth below and in Section 6 of this ordinance.

5.1 Residential District

Intent -- In Washington Park a character of development has formed as 95% of the lots are built upon. In order to preserve this character, the Town Board on August 1, 2011 adopted a motion to maintain that character. The motion prohibits other than conventional, on-site, stick-built home construction on remaining un-built lots or on lots where existing houses may be replaced.

- a) The Residential District is established as a district in which the principal use of the land is for single family detached residential purposes, and to provide and protect low density residential areas for those desiring that type of environment. These districts are intended to ensure that residential development dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.
- b) Permitted Principal Uses – Single family dwelling, garages and other out buildings, gardens, provided no retail stands are on property.
- c) Permitted Accessory Uses – Customary Home Occupation
- d) Exceptions – Necessary municipal facilities[†]
- e) Dimensional Requirements
 - 1) Minimum lot area 15,000 square feet
 - 2) Minimum Yard Requirement
 - Front Yard – 30 feet depth from Right of Way
 - Mean Lot Width – Minimum Frontage 75 feet
 - Rear – Minimum Rear Yard 5 feet
 - Side – Minimum Side Yard 10 feet
 - 3) Height – None
- f) Off-Street Parking – Spaces for two cars, each 9 feet X 18 feet

- g) Signs-None for commercial purposes (for sale sign permitted) up to 6 feet in area
- h) Notes
 - 1) 15,000 square feet is a minimum, it may not be suitable for a well and septic tank. The Beaufort County Sanitarian will make the determination. Prior to issuance of building permit, the enforcement officer shall receive a positive determination of septic adequacy.
 - 2) Signs are not allowed for customary home occupations, i.e.; to advertise customary home occupations.

5.2 Commercial District

- a) Intent – The Commercial District is established as a district in which the principal use of land is to provide for retail sale of residentially oriented goods and services to residents living in the local area. Because the business uses are subject to the public view, developers and operators of businesses should provide an appropriate appearance, ample parking, and design of entrances and exits to businesses in a measure to minimize traffic congestion.
- b) Permitted Principal Uses –marinas (4,000 square foot limitation applies to structures other than docking facilities and slip space), grocery/drug stores not to exceed 4,000 square feet floor area
- c) Permitted Accessory Uses – marina
- d) Special Exceptions – hardware
- e) Dimensional Requirements
 - 1) Minimum Lot Area – 30,000 square feet
 - 2) Minimum Yard Requirement
 - Minimum Front Yard – 60 feet
 - Minimum Rear Yard – 20 feet
 - Minimum Side Yard – 20 feet
 - 3) Maximum Lot Coverage – 30% maximum (exclusive of dock area and slip space)

- 4) Height – 34 feet above FEMA first floor requirement not to include chimneys, vents, air-conditioners or other appurtenances above roof line
- 5) Off-Street Parking – 1 space for each 300 square feet of gross floor space to include storage and stock areas as well as display space
- f) Signs- Will be unlighted internally and externally. Maximum size shall be one square foot for each foot of lot frontage. Signs must be attached to the building and not project vertically or horizontally from the building.
- g) Notes – Air Conditioners Location – Air conditioning units will not intrude into front, rear, or side yard setback requirements.

5.3

PARK DISTRICT

- a) Intent – The Town of Washington Park is the owner of certain lands lying between Riverside Drive and Pamlico River and between Edgewater Drive and Runyon's Creek, which should be and are set aside for the use and enjoyment of the citizens of the Town. The Park District is established as a district in which the principal use of land is to provide for individual and group recreational facilities.
- b) Permitted Principal Uses – Recreational facilities and structures of a public nature and horticultural endeavors.
- c) Permitted Accessory Uses – None
- d) Special Exceptions – Private piers and docks constructed in accordance with special use permits issued in accordance with this ordinance.
- e) Dimensional Requirements – All structures or improvements in this district shall be of such size, shape and construction as shall be specified and noted upon a special use permit issued by the Board of Adjustment.
- f) Application Information – All applications shall be in the form prescribed by the Board of Adjustment, in writing, with a detailed description of the contemplated structure and provide a drawing prepared to an appropriate scale, giving location, dimension and construction details and the estimated cost of construction.
- g) Existing Structures – All structures in this district in existence at the time of the adoption of this ordinance shall be deemed to be in compliance with this ordinance, but such structures shall not be materially altered without full compliance with this ordinance.

SECTION 6: SUPPLEMENTARY DISTRICT REGULATIONS

- 6.1 Visibility at Intersections in Residential Districts – On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and a half and seven feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.
- 6.2 Fences, Walls, and Hedges – Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard. **(see Section 6.2 for updated fence ordinance on next page)**
- 6.3 Erection of More than One Principal Structure on a Lot – In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
- 6.4 Exceptions of Height Regulations – The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- 6.5 Structures to Have Access – Every building hereafter erected or moved shall be on a lot adjacent to a mapped street, or with access to an approved private street, and all structures shall be as located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 6.2 Fences and Walls

- 1) Fences and walls shall comply with the following:
 - a) No fence or wall shall be placed or retained in such a manner as to obstruct vision at any public or private street intersection or road. No fence or wall shall alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch. No fence or wall shall block access from doors or windows.
 - b) The side of any fence or wall facing a property line shall be no less finished (having a look of completion of construction and/or better appearing side) than the side of the fence or wall facing the interior of the property.
 - c) All fences and walls shall be maintained in a condition that precludes a hazard or endangers any person, animal or property.
- 2) The following types of fences are prohibited:
 - a) Those fences constructed of barbed, concertina or razor wire, wire mesh, chicken wire.
 - b) Chain link fences are prohibited forward of the building line on a lot, but are allowed in the rear of the property.
 - c) Those fences constructed in whole or in part of readily flammable materials such as paper, cloth or canvas.
- 3) No opaque fence or wall shall exceed a height of seven feet (7') in any residential district nor eight feet (8') in any commercial district. No opaque fence or wall shall exceed a height of four feet (4') forward of the building line on a lot and shall have no less than 50% opacity except as described in **Subsection 3a**.
 - a) Within the town, but where the home fronts River Road, no wall or fence (solid or open) shall exceed seven feet six inches (7'6") in height within a front yard or six feet (6') in height within a side or rear yard.
 - b) Solid fence styles exceeding 50% opacity may be approved by the Town prior to a permit being issued.
 - c) Fences and walls may project into or may enclose any front yard; however, no fence may be constructed on or in a public street right-of-way, or within ten feet (10') of the curb of River Road.
 - d) Permits for fences over four feet (4') may be issued to homeowners if the primary dwelling is within sixty feet (60') or less of the curb of River Road.
 - e) Landscaping in front of fences may be required and must be approved prior to the issuing of a fence permit. Subsequent care for landscaping must be maintained by the homeowner to preserve sight lines and access.

- f) Fence and wall height limitations shall not apply to utility facilities.
- 4) Prior to the installation of a fence or wall, the applicant shall obtain a fence permit from the Town Clerk in order to ensure proper location, setbacks, height, sight clearance, etc.

SECTION 7: ADMINISTRATION AND ENFORCEMENT

7.1 Zoning Enforcement Officer

The Town Board of Commissioners shall appoint an administrative officer to enforce this ordinance. If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he or the Town Attorney shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. A copy of that notice shall be sent to the Secretary of the Planning Board. The Zoning Enforcement Officer shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take other lawful action to ensure compliance with or to prevent violation of this ordinance. If a ruling of the Zoning Enforcement Office is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

7.2 Building Permits Required

No building or other construction costing more than the amount as required by NC Building Code (\$15,000 or any structural, electrical, plumbing, or mechanical change in design or alteration as defined by code.) (General market costs with materials from a building supply business and use of market contractors) shall be erected, moved, added to, or structurally altered without a permit to do so, issued by the Building Inspector. No building permit shall be issued without the presentation of a Letter of Zoning Compliance.

7.21 Application for Building Permit. All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing buildings; or proposed building or alteration; existing or proposed uses of the building and land; the number of families the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance. One copy of the plans shall be returned to the applicant by the Zoning Enforcement Officer, after he shall have marked such copy either as approved or disapproved and attested to same by his signature stamp on the letter. A copy of related forms, letters,

etc., similarly marked, shall be retained by the Zoning Enforcement Official.

7.3 Certificates of Zoning Compliance for New, Altered, or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or land, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Zoning Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this ordinance.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the Zoning Enforcement Officer. The certificate of zoning compliance shall state specifically wherein the non-conforming use differs from the provisions of this ordinance, provided that upon enactment or amendment of this ordinance, owners or occupants of non-conforming uses or structures shall apply for certificates of zoning compliance.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this ordinance upon completion of the work.

A temporary certificate of zoning compliance may be issued by the Zoning Enforcement Officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

The Zoning Enforcement Officer shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and punishable under Section 9.3 of this ordinance.

7.4 Expiration of Building Permit

If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Enforcement Officer; and written notice thereof shall be given to the persons affected.

If the work described in any building has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Enforcement Officer, and written notice thereof shall be given to the person affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

7.5 Construction and Use to be as provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Enforcement Officer authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by 9.3 thereof.

7.6 Remedies Available

In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this ordinance, the Zoning Enforcement Officer or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate act of proceeding to prevent such violation.

7.7 Board of Adjustment

There shall be created a Board of Adjustment consisting of members of the Town Board of Washington Park.

7.71 Number 6 regular, 0 alternates

7.72 Terms Chairman, Mayor

7.73 Zoning Enforcement Officer shall attend all meetings.

7.74 Vacancies shall be filled for unexpired portion of terms from among the residents of Washington Park who will serve until the vacant Town Board seat is filled.

7.75 Rules

a. Meetings shall be at the call of the Chairman and shall be open to the public. Agenda shall be advertised.

b. Minutes suitable for review in court shall be kept showing

1. vote of each member
2. reasons for the determination
3. findings of fact

4. shall be filed immediately with Town Board as part of public record (minutes of Town Board)
- c. Concurring vote of 4 members shall be necessary to take official action including but not limited to correct an error, a grant, a variance, make interpretation, or address an obvious omission.

7.76 Powers and Duties of the Board of Adjustment

- a. Administrative Review – To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in the enforcement of this ordinance.
- b. Special Uses; Conditions, Governing Applications- To grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses as authorized by this ordinance and set forth as Special Uses under the various use districts. The Board shall not grant a special use permit unless and until:
 1. A written application for a special use permit is submitted indicating the section of this ordinance under which the special use permit is sought.
 2. A public hearing is held. Notice of such public hearing shall be posted on the property for which the special use permit is sought; it shall be advertised in a local newspaper at least fifteen (15) days prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two (2) consecutive weeks.
 3. The Board of Adjustment finds that in the particular case in question the use for which the special use permit is sought will not adversely affect the health or safety of person residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit the Board of Adjustment may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this ordinance.
 4. If at any time, after a special use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, the permit shall be

terminated and the operation of such a use discontinued. If a special use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

- c. Variances - To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardships. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

A written application for a variance is submitted demonstrating:

1. that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 2. that a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 3. that said circumstances do not result from the actions of the applicant;
 4. that granting the variance requested will not confer upon the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
 5. that no non-conforming use of neighboring land, structures, or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- d. In no case shall the Board of Adjustment grant a special use permit for a variance for a use not specifically listed in Sections 5.1 or 5.2 of this ordinance. Use deviations are not within the purview of any administrative official or the Board of Adjustment. Uses not listed must be added by amending this ordinance: an act that can only be performed by the Town Board of Commissioners.

Notice of public hearing shall be given as set forth in Subsection 7.76 B2. At the public hearing which is held any party may appear in person or by agent or by attorney.

7.77 Decision on Variance

- a. The Board of Adjustment shall make findings that the requirements of Subsection 7.76 c, 1-5 have been met for a variance.
- b. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum one that will make possible the reasonable use of the land, building, or structure.
- c. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- d. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable in an appropriate court action.
- e. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.
- f. Decision of the Board of Adjustment -- In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, requirements, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken.

SECTION 8: AMENDMENTS AND CHANGES

8.1 Motion to Amend

The Town Board of Commissioners may, on its own motion or upon recommendation of the Planning Board, or upon petition by any person within the zoning jurisdiction, after public notice and hearing, amend, or repeal the regulations or the maps which are a part of this ordinance. No regulation or maps shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which all parties in interest and citizens shall have an opportunity to be heard. A notice of such public hearing shall be given once a week for two (2) successive weeks in a newspaper of general circulation in the town, said notice to be published the first time not less than fifteen (15) days prior to the date fixed for such public hearing.

8.2 Protests against Amendment

In case of a protest against such proposal, duly signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one-hundred (100) feet there from, or of those directly opposite thereto extending one-hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of four-fifths (4/5) of all the members of the Town Board of Commissioners.

8.3 Planning Board Action

Every proposed amendment or repeal to this ordinance shall be referred to the Planning Board for its recommendation and report provided that no proposal shall be considered by the Planning Board within five (5) days from filing of the proposal with the Zoning Enforcement Officer. All petitions for a change in the zoning map shall include a legal description of the property involved and the names and addresses of current abutting property owners, and shall be accompanied by a fee of fifty dollars (\$50.00) to cover cost of advertising as required by this ordinance.

SECTION 9: LEGAL PROVISIONS

9.1 Interpretation, Purpose and Conflict

In interpreting and applying the provisions of this ordinance the Zoning Enforcement Officer shall hold to the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this ordinance shall govern, provided that nothing in the ordinance shall be construed to amend or repeal any other existing ordinance of the town.

9.2 Validity

Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part specifically declared to be unconstitutional or invalid.

9.3 Penalties

Any person, firm, or corporation who violates the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined or penalized in an appropriate legal action. Each day of violation after written notification by the Enforcement Officer shall be considered a separate offense.
