

Nash County

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**The Wooten Company
Engineering≅Planning≅Architecture
Raleigh/Greenville, North Carolina**

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**Nash County UDO
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ARTICLE I
PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the 'Nash County Unified Development Ordinance,' except as referred to herein, where it shall be known as 'this Ordinance.'

1-2 REPEALS AND ENACTMENT

1-2.1 Repeal of Inconsistency

All ordinances, or portions thereof, of Nash County, which relate to zoning, subdivision, and land use which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

1.2.2 Enactment

This Ordinance is hereby enacted and shall be the Unified Development Ordinance for Nash County.

1-2.3 Effective Date

This Ordinance was originally adopted on October 5, 1998 and shall become effective on April 1, 1999.

1-3 PURPOSE

1-3.1 General Purpose

It is the purpose of this Ordinance to promote the health, safety, and general welfare of the residents of Nash County through the regulations of this Ordinance.

1-3.2 Zoning Regulation Purpose

The zoning regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Lessen congestion in the roads;
- (B) Secure safety from fire, panic and other dangers;
- (C) Provide adequate light and air,
- (D) Prevent the overcrowding of land;
- (E) Avoid undue concentration of population;

- (F) Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;
- (G) Protect water quality within public water supply watersheds;
- (H) Preserve and enhance visual attractiveness and economic vitality;
- (I) Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic; and
- (J) Establish a zoning vested right upon the approval of a site specific development plan pursuant to [NCGS-G.S. 153A-344.1160D-108](#).

1-3.3 Cluster and Zero Side Setback Regulation Purpose

The single-family dwelling cluster and zero side setback regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Encourage innovation in residential development by providing efficient, attractive, flexible and environmentally sensitive design;
- (B) Lower the costs of housing by reducing the lot size and the per dwelling unit linear footage of roads, water lines, storm sewers and sanitary sewers;
- (C) Reduce the future cost of infrastructure maintenance and, therefore, the burden upon taxpayers and ratepayers;
- (D) Encourage development in areas, which have major roads and utility lines in place, but are experiencing little or no development;
- (E) Protect water quality, preserve wildlife habitats, and protect natural features such as streams, lakes, wetlands, and trees; and
- (F) Reduce the amount of grading necessary for site preparation.

1-3.4 Manufactured Housing Regulation Purpose

The manufactured housing regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Provide alternative, affordable housing opportunities for low and moderate income residents in residential areas by allowing for the use of manufactured dwellings; and
- (B) Protect property values and preserve the character and integrity of the community or individual neighborhoods within the community.

1-3.5 Subdivision Regulation Purpose.

The subdivision regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Promote orderly growth and development;
- (B) Provide for suitable residential and nonresidential developments with adequate roads and utilities and appropriate building sites;
- (C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- (D) Provide for the coordination of roads within subdivisions with existing or planned roads and with other public facilities;
- (E) Provide for the dedication or reservation of rights-of-way or easements for road and utility purposes;
- (F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- (G) Encourage design that is protective of environmental quality;
- (H) Provide for the dedication or reservation of recreation, park, farmland and greenway areas; and
- (I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

1-3.6 Sign Regulation Purpose

The sign regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Recognize that signs serve a legitimate public service and that they complement and support trade, tourism, and investment within Nash County;
- (B) Encourage the effective use of signs as a means of visual communication;
- (C) Promote a positive community appearance for the enjoyment of all citizens;
- (D) Maintain and enhance the aesthetic environment and the community's ability to attract sources of economic development and growth;
- (E) Protect the public from damage or injury attributable to distractions and/or obstructions caused by improperly designed or located signs; and
- (F) Protect existing property values in both residential and nonresidential areas.

1-3.7 Off-Road Parking, Stacking, and Loading Regulation Purpose

The Off-road parking, stacking, and loading regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Ensure a sufficient amount of Off-Road parking, stacking, and loading areas for various land uses;
- (B) Ensure easy, convenient circulation of vehicles within parking and loading areas;
- (C) Minimize the potential for conflict with traffic on public roads; and
- (D) Permit the shared use of parking areas by establishments and/or activities which have different hours of operation.

1-3.8 Buffer Yard Purpose

The buffer yard regulations adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Create a better quality of life for the community by encouraging preservation of existing trees and vegetation;
- (B) Provide visual buffering and enhance beautification;
- (C) Establish appropriate separation between land uses;
- (D) Provide the separation necessary to permit certain land uses to coexist harmoniously which might not do so otherwise;
- (E) Safeguard and enhance property values and protect public and private investment;
- (F) Enhance the County's competitive position in economic development and tourism by improving views, particularly along roads; and
- (G) Reduce the negative impact of glare, noise, trash, odors, overcrowding, traffic, lack of privacy, and visual disorder when incompatible land uses adjoin one another.

1-3.9 Watershed Protection Purpose

The watershed protection regulations adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate to:

- (A) Protect those portions of designated public water supply watersheds which lie closest to existing and proposed public water supply sources from activities which could degrade water quality in those water supply sources;

- (B) Reduce the volume of nutrients and other chemicals, which could enter the water supply, by reducing the amount of runoff which any given development will generate;
- (C) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soil, thus alleviating the sedimentation of water supply sources which reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (D) Reduce the probability of the release of harmful chemicals into water supply sources, either through natural catastrophe or human error; and
- (E) Provide for natural and engineered methods for managing the stormwater which flushes contaminants off of impervious surfaces in the watershed areas and which may reach water supply sources unless controlled.

1-3.10 Flood Damage Prevention Purpose

The flood damage prevention regulations, adopted and prescribed in this Ordinance, are found by the Board of Commissioners to be necessary and appropriate in order to:

- (A) Permit only that development within the floodplain which is appropriate in light of the probability of flood damage and which represents a reasonable social and economic use of land in relation to the hazards involved; and
- (B) Minimize public and private losses due to flood conditions in specific areas by enactment of provisions designed to:
 - 1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - 2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
 - 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
 - 4) Control filling, grading, dredging and other development, which may increase erosion or flood damage;
 - 5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
 - 6) Protect human life and health;
 - 7) Minimize expenditure of public money for costly flood control projects;

- 8) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 9) Minimize prolonged business losses and interruptions;
- 10) Minimize damage to public facilities and utilities such as water, sewer, gas, electric, and telephones lines and roads and bridges located in floodplains;
- 11) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- 12) Permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community and which will not impede the flow of floodwaters; and
- 13) Ensure that potential buyers are notified whenever property is in a flood hazard area.

(C) EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted January 20, 1982 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Nash County enacted on January 20, 1982, as amended, which are not reenacted herein, are repealed.

(a) EFFECT UPON OUTSTANDING BUILDING PERMITS.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to passage of this ordinance or any revision thereto, construction or use shall be in conformity with the provisions of this ordinance.

EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the County Commissioners of Nash County, North Carolina, on the 1st day of November, 2004

WITNESS my hand and the official seal of _____, this the 1st day of November, 2004.

1-4 JURISDICTION

The provisions of this Ordinance shall apply to all the territory encompassed in Nash County, North Carolina, herein referred to as 'the Jurisdiction,' except for those areas within incorporated municipalities and their extraterritorial jurisdiction. Such planning jurisdiction may be modified from time to time in accordance with ~~NCGS G.S. 153A-320~~160D-201. -This Ordinance shall govern the development and use of land and structures therein, except for bona fide farms as provided for by ~~NCGS G.S. 153A-340~~160D-903.

This Ordinance does not impose nor exercise any controls over cropland, timberlands, pasturelands, orchards, idle (land currently not cultivated or that is fallow-currently unplanted for crops) or other farmlands. Nor does it exercise control over any farmhouse, barn, poultry house or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be located on the farm. Residences for family members or non-farm use shall be subject of the provisions of this Ordinance. (*Amended 7/12/2010*)

1-5 AUTHORITY

This Ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 63 (Aeronautics); Chapter 69 (Fire Protection); Chapter 74 (Environmental Controls), Chapter 95 (Department of Labor and Labor Regulations), Chapter 106 (Agricultural Regulations), Chapter 113A (Pollution Control and Environment), Chapter 119 (Gasoline and Oil Inspection and Regulations), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), Chapter 136 (Roads and Highways), Chapter 143 (State Departments, Institutions, and Commissions), Chapter ~~153A—160D~~(~~Counties~~), and Chapter 168 (Handicapped Persons). This Ordinance may be amended from time to time as required or allowed by subsequent legislature enactments.

1-6 ABROGATION

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law.

1-7 COMPLIANCE

1-7.1 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified, except as authorized by this Ordinance.

1-7.2 Voluntary Compliance

Nothing in this Section shall be deemed to preclude voluntary compliance with the provisions of this Ordinance for development approved prior to the effective date of this Ordinance.

1-8 RELATIONSHIP TO THE LAND DEVELOPMENT PLAN

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for Nash County, as reflected in the land development plan and other planning documents. While the Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

1-9 FEES

- (A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, conditional zoning permits, sign permits, ~~conditional use permits~~, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be set forth in the County's budget or as established by resolution of the Board of Commissioners and filed in the offices of the Planning Department.
- (B) Fees established in accordance with subsection (A) shall be paid upon submission of a signed application or notice of appeal.

1-10 SEVERABILITY

1-10.1 Invalidation

Should any Section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction of either the State of North Carolina or the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1-10.2 Prejudicial Application

If any Section, sentence, clause, phase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1-10.3 Lawful Presumption

There shall be a conclusive presumption when a Zoning Administrator or board authorizes regulatory action, that such administrator or board would not have authorized such action except in the belief that such action was lawful.

**ARTICLE II
INTERPRETATIONS AND DEFINITIONS**

2-1.0 INTERPRETATION OF ORDINANCE

2-1.1 Minimum Requirements

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

2-1.2 Greater Restrictions Govern

These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this Ordinance, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

2-1.3 Rounding of Numbers

All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, except that in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

2-1.4 Figures and Tables

The figures and tables provided in this Ordinance are designed to provide a visual explanation to selected Sections of the Ordinance. If any illustration appears to be in conflict with the text of the Ordinance, the text shall govern.

2-2.0 RULES OF CONSTRUCTION

2-2.1 Word Interpretation

Words not defined in this Ordinance shall be given their ordinary and common meaning.

2-2.2 Rules of Construction

For purposes of this Ordinance, the following rules of construction shall apply:

- (A) **Tense:** Words used in the present tense include the future tense;
- (B) **Singular and Plural:** Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise;
- (C) **Mandatory Meaning:** The words 'shall', 'will', and 'must' are mandatory in nature implying an obligation or duty to comply with the particular provision;
- (D) **Gender:** Words used in the male gender include the female gender; and
- (E) **References:** Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

2-3.0 INTERPRETATION OF DISTRICT BOUNDARIES

2-3.1 Boundary Interpretation

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

- (A) **Centerline:** Where a boundary line lies within and follows a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- (B) **Edge Line:** Where a boundary line follows the edge of a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility easement.
- (C) **Lot Line:** Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

- (D) **Municipal Limits:** Boundaries indicated as approximately following municipal limits or extraterritorial boundary lines shall be construed as following the municipal limits or extraterritorial boundary lines.
- (E) **County Line:** Boundaries indicated as approximately following county lines shall be construed as following the county line.
- (F) **Watercourses:** Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) **Extensions:** Boundaries indicated as parallel to, or as extensions of road or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, municipal limits, county lines, or extraterritorial boundaries, shall be so construed.
- (H) **Scaling:** Where a district boundary does not coincide with any boundary line as delineated above and no distances are described by specific ordinance, the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Flood Hazard Boundary Maps, if available, shall be used for scaling.

2-3.2 Interpretation by Board of Adjustment

Where existing natural or man-made features on the ground are at variance with those shown on the Official Zoning Map, or are not covered by Section 2-3.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

2-3.3 Annexation

If any portion of the territory subject to county jurisdiction under this Ordinance shall be annexed by a municipality, or taken into a municipality's jurisdiction by act of the General Assembly, or in accordance with G.S. 160A, Article 4A or G.S. 160 Article 2, county regulations and powers or enforcement shall remain in effect until:

- (A) The municipality has adopted regulations for said annexed or extraterritorial area; or
- (B) A period of sixty days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction.

2-4.0 DEFINITIONS

Unless otherwise provided within this ordinance or in accordance with § 160D-102 of the North Carolina General Statutes all other words used in this Ordinance shall have their customary dictionary definition.

2-4.1 Access Easement. An easement which grants the right to cross property.

- 2-4.2 Accessory Building.** A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith. (See Section 9-5 for specific standards and exceptions related to accessory buildings and structures.) *(Amended 1/10/11)*
- 2-4.3 Accessory Structure. Address.** The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.
- 2-4.4 Address.** The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.
- 2-4.5 Adult Bookstore.** An establishment that has as a substantial portion (over 25 percent of total retail space) of its stock-in-trade and offers for rent or sale, for any consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. Specified anatomical areas and specified sexual activities are defined in the County's *Ordinance to Regulate Adult Business and Sexually Oriented Businesses in Nash County*.
- 2-4.6 Adult Theater.** A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities. Specified anatomical areas and specified sexual activities are defined in the County's *Ordinance to Regulate Adult Business and Sexually Oriented Businesses in Nash County*.
- 2-4.6 (A) Agricultural Industry.** Agricultural activities as set forth in G.S. 160D-903
- 2-4.6 (B) Agricultural Tourism Business:** Agricultural tourism activities as set forth in G.S. 160D-903
- 2-4.7 Aircraft.** Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters, and dirigibles.
- 2-4.8 Alley.** A roadway which affords only a secondary means of access to abutting property.
- 2-4.9 Assembly.** A joining together of completely fabricated parts to create a finished product.
- 2-4.10 Athletic Field** Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).
- 2-4.11 Auto Wrecking.** A person or establishment that provides open storage, disassembling, or salvaging for junked motor vehicles.
- 2-4.12 Automobile Repair Services.** An establishment primarily engaged in one or more of the following activities: 1) general automotive repair or service, 2) automotive engine

repair, 3) installation or repair of automotive transmissions, 4) installation or repair of automotive glass, 5) installation or repair of automotive exhaust systems, 6) repair of automotive tops, bodies and interiors, and 7) automotive painting and refinishing.

- 2-4.13 Basement.** A story of a building or structure having one-half or more of its clear height below grade.
- 2-4.14 Best Management Practices (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- 2-4.15 Biomass Energy Production Facility.** A facility which uses primarily organic materials including, but not necessarily limited to, wood chips, energy crops, agricultural waste (livestock waste or crop residues) and/or food waste to generate renewable electrical and/or thermal energy (or to produce the fuel used to generate renewable electrical and/or thermal energy) through the processes of anaerobic digestion, combustion, gasification, and/or fermentation. (Amended 10/5/20)
- 2-4.16 Block.** The land lying within an area bounded on all sides by roads.
- 2-4.17 Board of Adjustment.** A quasi-judicial body, appointed by the County Board of Commissioners, that is given certain powers under this Ordinance.
- 2-4.18 Boarding House.** A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.
- 2-4.19 Buffer.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers. The widths of buffer areas are established pursuant to the requirements of Section 11-3.
- 2-4.20 Buffer Yard.** A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences in accordance with the provisions of Section 11-3.
- 2-4.21 Buildable Lot.** One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.
- 2-4.22 Building.** Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered a separate building.
- 2-4.23 Building Height.** The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories does not include basements, except as specifically provided for in this Ordinance.

- 2-4.24 Building Line.** The line, established by this Ordinance, beyond which the building shall not extend, except as specifically provided by this Ordinance.
- 2-4.25 Building Separation.** The minimum required horizontal distance between buildings.
- 2-4.26 Built-upon Area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Built-upon area requirements for watershed overlay districts are delineated in Sections 12-1.2(B), 12-1.3(C), and 12-1.4(C).
- 2-4.27 Caliper Inches.** Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and twelve inches above the ground for trees over four inches in trunk diameter.
- 2-4.28 Canopy Tree.** A species of tree which normally grows to a mature height of forty feet or more with a minimum mature crown width of thirty feet.
- 2-4.29 Certificate Of Zoning Compliance.** A statement, signed by the Zoning Administrator, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.
- 2-4.30 Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this Ordinance, planned unit developments and mixed use development are considered as cluster development. General requirements are provided in Section 9-4.1(B) and for watershed overlay districts, Section 12-1.6.
- 2-4.31 Collector Road.** A road whose principal function is to carry traffic between cul-de-sac, local, and subcollector roads, and roads of higher classification, but which may also provide direct access to abutting properties.
- 2-4.32 Combination Use.** A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 9-3.4. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)
- 2-4.33 Common Area(s).** All areas, including private roads, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.
- 2-4.34 Conditional Rezoning.** A legislative zoning map amendment with incorporated site-specific conditions.

- 2-4.35 Condominium.** Portions of real estate which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.
- 2-4.36 Congregate Care Facility.** A facility providing shelter and services for ambulatory individuals who by reason of the age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.
- 2-4.37 Convenience Store.** A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a 'supermarket'). It is designed to attract and depends upon a large volume of 'stop and go' traffic. Illustrative examples of convenience stores are those operated by the 'Fast Fare', '7-11', and 'Pantry' chains.
- 2-4.38 Corner Lot.** A lot abutting two or more roads at their intersection.
- 2-4.39 County.** Refers to Nash County, North Carolina.
- 2-4.40 County Board.** Refers to the Nash County Board of County Commissioners.
- 2-4.41 Critical Area.** The area adjacent to a water supply intake where risk associated with pollution is greater than for the remaining portions of the watershed. The critical area is defined as extending either (a) one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever comes first or (b) one-half mile upstream from and draining to the intake located directly in the stream or river or the ridge line of the watershed, whichever comes first. Nash County may extend the boundary of the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.
- 2-4.42 Critical Root Zone.** The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.
- 2-4.43 Cul-de-Sac Road.** A short local road having one end open to traffic and the other end permanently terminated by a vehicular turnaround.
- 2-4.44 Day.** Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.
- 2-4.45 Day Care Center.** A child day care facility as defined in NCGS 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for more than five adults. See Section 11-4.27 for specific provisions related to day care centers.

- 2-4.46 Developer.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
- 2-4.47 Development.** The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in G.S. 160D-802; or the initiation or substantial change in the use of land or the intensity of use of land.
- 2-4.48 Development, Density Of.** The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.
- 2-4.49 Domestic Wastewater Discharge.** The discharge of sewage, non-process industrial wastewater, other domestic wastewater or any combination of these items. Unless specifically excepted by the NCDEM, domestic wastewater includes liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through, non-contact cooling water; seafood packing facility discharges; and wastewater from restaurants.
- 2-4.50 Drainage Easement.** An easement which grants the right of water drainage to pass in open channels or enclosed structures.
- 2-4.51 Drainageway.** Any natural or man-made channel that carries surface runoff from precipitation.
- 2-4.52 Dripline.** A vertical line extending the outermost portion of a tree's canopy to the ground.
- 2-4.53 Duplex.** (See Two-Family Dwelling).
- 2-4.54 Dwelling.** Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
- 2-4.55 Easement.** A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.
- 2-4.56 Emergency Shelter.** A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official, or an

emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

- 2-4.57 Event and Conference Venue.** An establishment that is available to the general public for hosting weddings, receptions, conferences, parties, business meetings, social gatherings, and similar indoor or outdoor events. (Amended 5/4/2020, A-200301)
- 2-4.58 Existing Lot (Lot of Record).** See Lot of Record.
- 2-4.59 Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:
- (A) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
 - (B) having an outstanding valid building permit as authorized by G.S. 160D-108, or
 - (C) Having an approved site specific or phased development plan as authorized by G.S. 160D108.
- 2-4.60 Extraterritorial Planning Area.** That portion of a municipal planning jurisdiction that lies outside of the corporate limits of the municipality.
- 2-4.61 Family.** One or more persons occupying a dwelling unit and living as a single household.
- 2-4.62 Family Care Home.** A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21.
- 2-4.63 Farm Use, Bona Fide:** Agricultural activities as set forth in G.S. 160D-903
- 2-4.64 Fence.** A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.
- 2-4.65 Flood Hazard Area.** See Section 12-2.1 for flood hazard-related definitions.**2-4.66 Grade, Finished.** The final elevation of the ground surface after development.
- 2-4.67 Grade, Natural.** The elevation of the ground surface in its natural state before man-made alterations.
- 2-4.68 Gross Floor Area.** The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

- 2-4.69 Group Care Facility.** A facility licensed by the State of North Carolina (by whatever name it is called, other than 'Family Care Home' as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than thirty people.
- 2-4.70 Group Development.** A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses, or other enterprises.
- 2-4.71 Habitable Floor.** Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor.
- 2-4.72 Halfway House.** A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in 35 A-1101 (12)), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.
- 2-4.73 Hazardous Waste Treatment Facility.** A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipments and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilities 'reuse' or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.
- 2-4.74 Home Occupation.** A commercial use or activity that is conducted entirely within a dwelling or accessory structure by the occupants thereof, that is clearly incidental and secondary to the use of the dwelling for residential purposes and that does not change the character of the residence or create a significant adverse impact on the surrounding neighborhood. See Section 11-4.38 for specific regulations concerning home occupations. *(Amended 10/4/10)*
- 2-4.75 Homeless Shelter.** A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; 2) a minimum floor space of fifty square feet shall be provided for each individual

sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

- 2-4.76 Horse Show.** A temporary equestrian activity which is not conducted in conjunction with a riding academy.
- 2-4.77 Industrial Discharge.** The discharge of industrial process treated wastewater or wastewater other than sewage and includes:
- (A) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
 - (B) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
 - (C) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
 - (D) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.
- 2-4.78 Interior Setback.** A setback from any property line not alongside a road.
- 2-4.79 Internet Sweepstakes Café.** – Any business enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet sweepstakes, video sweepstakes, electronic gaming operations or cybercafés. This does not include any lottery approved by the State of North Carolina. (*Amended 10/4/10*)
- 2-4.80 Junk/Salvage Yard.** A commercial or industrial use of land or area that involves the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.
- 2-4.81 Junked Motor Vehicle.** A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five years old and appears to be worth less than one hundred dollars; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.
- 2-4.82 Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.
- 2-4.83 Landfill, Demolition and Construction Debris.** .A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types

of waste must be approved by the NC Division of Health Services. (Areas under two acres to be used for parking lots or non habitable buildings for which a building permit has been issued, using solid blocks, bricks, and uncontaminated soil for filling, is exempt from this definition.)

- 2-4.84 Landfill, Discharging.** A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.
- 2-4.85 Landfill, Sanitary/Solid Waste.** A site for solid waste disposal from residential, industrial or commercial activities.
- 2-4.86 Legislative Decision.** The adoption, amendment, or repeal of a zoning ordinance (which includes a zoning map), subdivision ordinances, housing codes, and the other development regulations, ordinances.
- 2-4.87 Legislative Hearing.** A hearing to solicit public comment on a proposed legislative decision.
- 2-4.88 Local Road.** A road whose primary function is to provide access to abutting properties.
- 2-4.89 Lot.** A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word 'lot' includes 'plot', 'parcel', or 'tract'.
- 2-4.90 Lot Area.** The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.
- 2-4.91 Lot Coverage.** The portion of a lot covered by building(s) and/or structure(s).
- 2-4.92 Lot Depth.** The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.
- 2-4.93 Lot Line, Front.** The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line).
- 2-4.94 Lot of Record.** A lot, plot, parcel, or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.
- 2-4.95 Lot Width.** The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

2-4.96 Major Thoroughfare Road. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas.

2-4.97 Major Variance. A variance from the watershed overlay district requirements that results in any one or more of the following:

- (A) the complete waiver of any of the management requirements outlined in Sections 12-1.2, 12-1.3, 12-1.4, 12-1.7, 12-1.8 and 12-1.11.
- (B) the relaxation, by a factor of greater than ten percent, of any of the above-referenced management requirements.
- (C) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Note: *This definition is applicable only to variances from requirements delineated for watershed protection overlay districts.*

2-4.98 Manufactured Home. A dwelling unit, designed for use as a permanent residence, that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

2-4.99 Manufactured Home, Class A. A dwelling unit that: (i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and (ii) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and (iii) meets or exceeds the construction standards of the US Department of Housing and Urban Development, and (iv) conforms to the following appearance criteria:

- (A) the manufactured home has a minimum width, as assembled on the site, of twenty feet;
- (B) the pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
- (C) a continuous, permanent curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home; and
- (D) the tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

2-4.100 Manufactured Home, Class B. A manufactured home that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development established after July 1, 1976 that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a Class A manufactured home but meets the following standards: (A) skirting or a curtain wall, unpierced except for required ventilation and access, is installed under

the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and (B) stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.

2-4.101 Reserved

2-4.102 Manufactured Home Park. A residential use in which more than 3 Class A, or B manufactured homes are located on a single lot or tract. See Section 11-4.46 for specific provisions related to manufactured home parks.

2-4.103 Manufactured Home Space. A designated area of land within a manufactured home park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this Ordinance.

2-4.104 Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

2-4.105 Minor Thoroughfare Road. Minor thoroughfares collect traffic from collector, subcollector, and local roads and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

2-4.106 Minor Variance. A variance from the watershed overlay district requirements that results in a relaxation, by a factor of up to five percent, of any buffer, density or built-upon area requirements delineated in Section 12-1.12 or that results in a relaxation, by a factor of up to ten percent, of any management requirement in Sections 12-1.2, 12-1.3, 12-1.4, 12-1.7, 12-1.8 and 12-1.11.

Note: This definition is applicable only to variances from requirements delineated for watershed protection overlay districts.

2-4.107 Modular Home. A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the NC State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

2-4.108 Multi-Family Dwelling. A building or portion thereof used or designed as a residence for three or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartments, townhouses and condominiums.

- 2-4.109 Multi-Tenant Building.** A building that is used for two or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.
- 2-4.110 Non-process Discharge.** Industrial effluent not directly resulting from the manufacturing process. An example would be non-contact cooling water from a compressor.
- 2-4.111 Nonconforming.** A lot, structure, sign, or use of land, which is now prohibited under the terms of this Ordinance, but was lawful at the date of this Ordinance's enactment, or any amendment or revision thereto.
- 2-4.112 Nonconforming Lot(s).** A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.
- 2-4.113 Nonconforming Project.** Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- 2-4.114 Nonconforming Situation..** A situation that occurs when, on the effective date of this Ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and set-back requirements) is not in conformity with this Ordinance, because signs do not meet the requirements of this Ordinance (Section 11-1), or because land or buildings are used for purposes made unlawful by this Ordinance.
- 2-4.115 Nonconforming Structure(s).** A structure that does not conform to the requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.
- 2-4.116 Nonconforming Use.** A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this Ordinance or any subsequent amendment.
- 2-4.117 Nonconformity, Dimensional.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- 2-4.118 Nursing Home.** An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

- 2-4.119 Outdoor Religious Event.** An activity of a religious organization that is conducted outdoors as a free-standing use and is not an accessory use to a principal use such as a church or other place of worship. An example of an outdoor religious event would be a tent revival.
- 2-4.120 Owner/Landowner.** The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.
- 2-4.121 Patio Home.** A single family dwelling on a separate lot, situated with open space setbacks on three sides. A patio home may be attached to an adjacent patio home at the common lot line on the fourth side, or may be situated with a zero side setback on one side. Patio homes are subject to the provision of zero side setback development (UDO Section 9-4.1 (C)).
- 2-4.122 Pedestrian Way.** A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.
- 2-4.123 Permit-issuing Authority/ Governing Board.** The person or board authorized by this Ordinance to issue a permit in accordance with the requirements of this Ordinance. The term applies to the Zoning Administrator when issuing a zoning or sign permit, the Board of Adjustment when issuing a special use permit.
- 2-4.124 Person.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body or other legal entity.
- 2-4.125 Planned Unit Development (PUD).** An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Ordinance.
- 2-4.126 Planning Department.** The Office of County Planning of Nash County.
- 2-4.127 Planning Jurisdiction.** The geographic area within which a city or county may undertake planning and apply the development regulations authorized by G.S. 160D-201
- 2-4.128 Plat.** A surveyed map or plan of a parcel of land which is to be, or has been subdivided.
- 2-4.129 Plat, Final.** The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, roads, easements and any other requirements of Appendix 1, which is presented for County approval and subsequent recordation in the Nash County Register of Deeds Office.
- 2-4.130 Plat, Preliminary.** A map indicating the proposed layout of the subdivision or site showing lots, roads, water, sewer, storm drainage, and any other requirements of Appendix 1, which is presented for preliminary approval.

- 2-4.131 Principal Building.** A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is a farm tenant dwelling; or a residence for a pastor; or a caretaker dwelling accessory to a nonresidential use (limited to one such residence per lot; See Section 11-4.16).
- 2-4.132 Principal Dwelling.** Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.
- 2-4.133 Principal Structure.** A structure(s) in which is conducted the principal use(s) of the lot on which it is located.
- 2-4.134 Private Dormitory.** A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.
- 2-4.135 Private Drive.** A vehicular travelway not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.
- 2-4.136 Private Sewer.** A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.
- 2-4.137 Private Road.** A vehicular travelway not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system. Private roads may not be approved when access is provided to more than 10 lots, parcels or tracts. Private roads must comply with the requirements of Section 10-7.3(G).
- 2-4.138 Private Water.** A system which provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.
- 2-4.139 Protected Area.** The area adjoining and upstream of the watershed critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.
- 2-4.140 Public Sewer.** A system which provides for the collection and treatment of sanitary sewage from more than one property, and is owned and operated by a government organization or sanitary district.
- 2-4.141 Public Road.** A dedicated public right-of-way for vehicular traffic which 1) has been accepted by NCDOT for maintenance; or 2) is not yet accepted but in which the

roadway design and construction have been approved under public standards for vehicular traffic. Alleys are specifically excluded.

- 2-4.142 Public Water.** A system which provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.
- 2-4.143 Quasi-judicial Decision.** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decisionmaking board.
- 2-4.144 Rear Setback.** A setback from an interior property line lying on the opposite side of the lot from the front road setback.
- 2-4.145 Recreational Vehicle.** A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- 2-4.146 Recreational Vehicle Park.** Any site or tract of land, of contiguous ownership, upon which fifteen or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this Ordinance.
- 2-4.147 Recreational Vehicle Space.** A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this Ordinance.
- 2-4.148 Reservation.** An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication nor a conveyance.
- 2-4.149 Residuals.** Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.
- 2-4.150 Retaining Wall.** A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.
- 2-4.151 Reverse Frontage Lot.** A through lot which is not accessible from one of the parallel or non-intersecting roads upon which it fronts.
- 2-4.152 Rezoning / Zoning Map Amendment.** An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties.

- 2-4.153 Riding Academy.** A commercial facility or school which is open to the general public and offers such activities as riding lessons, horse training, and boarding of horses. For purposes of this ordinance, riding academy does not include the keeping of horses for personal use.
- 2-4.154 Road Right-of-Way.** A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.
- 2-4.155 Road Setback.** Any setback from a street, road, or lane.
- 2-4.156 Roof Line.** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.
- 2-4.157 Rooming Unit.** A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.
- 2-4.158 Rural Family Occupation.** A nonresidential use allowed by special use permit as an accessory use to a residential use in certain designated residential zoning districts. Rural family occupations must comply with the requirements of Section 11-4.66.
- 2-4.159 Salvage Yard, Auto Parts.** Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts therefrom.
- 2-4.160 Salvage Yard, Scrap Processing.** Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any residential or nonresidential land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.
- 2-4.161 Seating Capacity.** The actual seating capacity of an area based upon the number of seats, or one seat per eighteen inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.
- 2-4.162 Setback.** The minimum required horizontal distance between a structure or activity and the property line or the road right-of-way line.
- 2-4.163 Shopping Center.** A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas.
- 2-4.164 Side Setback.** Any interior property line setback other than a rear setback.

- 2-4.165 Sight Distance Easement.** An easement which grants to the entity responsible for road maintenance the right to maintain unobstructed view across property located at a road intersection.
- 2-4.166 Sign Permit.** A zoning permit issued by the Zoning Administrator that authorizes the location of a sign.
- 2-4.167 Single-Family Detached Dwelling.** A separate, detached building designed for and occupied exclusively by one family.
- 2-4.168 Site Plan.** A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.
- 2-4.169 Sketch Plan.** A rough sketch of a proposed subdivision or site, showing roads, lots, and any other information of sufficient accuracy to be used for discussion of the road system and the proposed development pattern.
- 2-4.170 Solar Farm.** A facility used to convert solar energy into electrical power for interconnection with the power grid for primarily off-site energy consumption.
- 2-4.171 Special Promotion.** An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.
- 2-4.172 Special Use Permit.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”
- 2-4.173 Stabilizing Vegetation.** Any vegetation that protects the soil against erosion.
- 2-4.174 Storm Drainage Facilities.** The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.
- 2-4.175 Stormwater Runoff.** The direct runoff of water resulting from precipitation in any form.

- 2-4.176 Structure.** Anything constructed, erected, or placed.
- 2-4.177 Subcollector Road.** A road whose principal function is to provide access to abutting properties, but which is also designed to be used or is used to connect local roads with collector or higher classification roads.
- 2-4.178 Subdivider.** Any person who subdivides land.
- 2-4.179 Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future), and includes all division of land involving the dedication of a new road or a change in existing roads; however, the following are not included within this definition and are not subject to any subdivision approval regulations in this Ordinance:
- (A) The combination or recombination of a portion of previously subdivided and recorded lots if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this Ordinance;
 - (B) The division of land into parcels greater than ten acres if no road right-of-way dedication is involved;
 - (C) The public acquisition by purchase of strips of land for the widening or opening of roads; and
 - (D) The division of a tract in single ownership, the entire area of which is not greater than two acres into not more than three lots, if no road right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of this Ordinance.
 - (E) The division of land for use as gravesites.
 - (F) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession.

Plats deemed to be an exception to the provisions of this Ordinance may be recorded provided the owner desiring to record such plats shall obtain a Certificate of Exception (see Appendix 2) from the Planning Director and shall present such certificate to the Nash County Register of Deeds as proof that the exception condition is present.

Exemption of a partition of land from the definition of 'subdivision' shall not exempt any resulting lots, tracts or parcels from meeting the requirements of this Ordinance for the granting of zoning, building, or health department permits.

- 2-4.180 Subdivision, Major.** A subdivision involving more than 2-lots or requiring an access easement(s), or requiring any new public or private road(s), or extension of any easement(s), public or private road(s), for access to interior property, or requiring extension of a public sewer or water line, or requiring a waiver or variance from the requirement of this Ordinance.

- 2-4.181 Subdivision, Minor.** A subdivision involving 2 or less lots fronting on an existing approved public road(s), not requiring any new public or private road(s) nor easements for access to interior property, not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance.
- 2-4.182 Swimming Pool.** A water-filled enclosure, permanently constructed having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches designed, used, and maintained for swimming and bathing.
- 2-4.183 Swine Farm.** Any tract or contiguous tracts of land which is devoted to raising animals of the porcine species and which is served by an animal waste management system having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater, regardless of the actual number of swine on the farm.
- 2-4.184 Temporary Building.** Any building of an impermanent nature, or one which is designed for use for a limited time, including any tent or canopy.
- 2-4.185 Temporary Construction, Storage or Office; Real Estate Sales or Rental Office.** An office for the sale of lots or homes in an approved subdivision is a permitted use in a residential zone as long as the sales are for homes or lots within the subdivision in which the modular office unit is located only.
- 2-4.186 Temporary Hardship Manufactured Home.** A Class B manufactured home, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person. (See Section 11-4.77 for specific development standards.) *(Amended 2/2/15)*
- 2-4.187 (A) Temporary Commercial Construction Office.** A temporary office located on a nonresidential construction site (See section 11-4.78(a) for specific standards related to such residences.) *(Amended 7/12/10)*
- 2-4.188 (B) Temporary Construction/Repair Residence.** A temporary residence that is located on the same lot as a permanent residence that is under construction or undergoing substantial repairs or renovations. (See Section 11-4.78(b) for specific standards related to such residences.) *(Amended 7/12/10)*
- 2-4.189 (C) Temporary Emergency Repair Residence.** A temporary residence that is located on the same lot as a permanent residence made uninhabitable by fire, flood, or other natural disaster while it is undergoing substantial repairs, reconstruction or replacement. (See Section 11-4.78 (c) for specific standards related to such residences.) *(Amended 7/12/10)*
- 2-4.190 Temporary Event.** An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization which is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horseshows, outdoor religious events and other similar activities.

- 2-4.191 Temporary Shelter.** A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building of and operated by a government agency or nonprofit organization; 2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.
- 2-4.192 Temporary Structure.** Any structure of an impermanent nature or one which is designed for use for a limited time, including any tent or canopy.
- 2-4.193 Ten-Year Storm.** The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
- 2-4.194 Tenant.** Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.
- 2-4.195 Thoroughfare Plan.** A plan adopted by the County Board of Commissioners for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.
- 2-4.196 Through Lot.** A lot abutting two roads that do not intersect at the corner of the lot.
- 2-4.197 Tourist Home.** A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee.
- 2-4.198 Tower Co-location.** An arrangement whereby more than one user occupies a single tower or structure.
- 2-4.199 Tower, Communications.** A structure greater than sixty feet in height whose primary purpose is to support communications equipment. This definition includes tower/antenna/building combinations and the height measurement applies to those combinations. This definition shall not include wire-supporting electric power transmission and telephone poles.
- 2-4.200 Tower, Lattice.** A guyed or self-supporting multi-sided, open, steel frame structure used to support communications equipment.
- 2-4.201 Tower, Monopole.** A structure composed of a single spire used to support communications equipment.
- 2-4.202 Townhouse Dwelling.** A building consisting of single-family residences attached to one another in which each unit is located on an individually-owned parcel, generally within a development containing drives, walks and open space in common area.
- 2-4.203 Townhouse Lot.** A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

- 2-4.204 Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.
- 2-4.205 Tract.** All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.
- 2-4.206 Two-Family Dwelling.** A building on one lot arranged and designed to be occupied by two families living independently of each other.
- 2-4.207 Understory Tree.** A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height.
- 2-4.208 Use.** The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.
- 2-4.209 Use(s), Accessory.** A structure or use that: 1) is clearly incidental to and customarily found in connection with a principal building or principal use; 2) is subordinate to and serves a principal building or principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and 5) is located on the same lot as the principal building or principal use served.
- 2-4.210 Use, Mixed.** Occupancy of building or land by more than one use.
- 2-4.211 Use(s), Principal.** The primary purpose or function that a lot or structure serves or is proposed to serve.
- 2-4.212 Utility Easement.** An easement which grants to the Board of Commissioners or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.
- 2-4.213 Utility Field Office (Government Owned).** A building or facility owned and operated by a government organization or utility district to maintain the infrastructure for a public service including electricity, natural gas, water and sewage. *(Added 8/1/11)*
- 2-4.214 Variance.** Official permission to depart from the requirements of this Ordinance. All variance requests are heard and decided by the Board of Adjustment (Article VII) except for requests for variances from the Watershed District Overlay requirements which are heard and decided by the Planning Board (Section 12-1.10).
- 2-4.215 Velocity.** The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall

be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

- 2-4.216 Waiver.** Official permission from a designated permit-issuing authority, other than the Board of Adjustment, to depart from specified requirements of this Ordinance.
- 2-4.217 Water-Dependent Structure.** Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.
- 2-4.218 Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake). For purposes of the water supply protection regulations contained herein, major landmarks such as highways or property lines may be utilized by Nash County to delineate the outer boundary of the drainage area if these landmarks are immediately adjacent to the ridge line.
- 2-4.219 Wet Detention Pond.** A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.
- 2-4.220 Yard sale (attic sale, lawn sale or garage sale):** The sale of residential household items which have been owned or used primarily by a person residing on the premises where the sale is conducted, and shall not include items purchased for resale, and shall be limited to no more than two days in any one year time period. Yard sales located on the property of a church, club, lodge or similar organization for individuals that are members of such an organization, are permitted but are limited to no more than three days in any one year time period.
- 2-4.221 Zero Side Setback.** An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses.
- 2-4.222 Zoning Administrator.** The person(s) authorized by Section 3-3 who is responsible for administering and enforcing this Ordinance.
- 2-4.223 Zoning District.** An area defined by this Ordinance and delineated on the Official Zoning Map, in which the requirements for the use of land and in which building and development standards are prescribed.
- 2-4.224 Zoning Permit.** A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.
- 2-4.225 Zoning Vested Right.** A right established pursuant to G.S. 160D-102 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan. (See Section 4-15.)

ARTICLE III

ADMINISTRATIVE MECHANISMS

3-1 PLANNING BOARD

3-1.1 Authority

There is hereby created a planning agency, pursuant to G.S. 160D-301, to be known as the Nash County Planning Board and referred to herein as the Planning Board.

3-1.2 Appointment and Terms of Planning Board Members

- (A) There shall be a Planning Board consisting of any size or composition considered appropriate (but not less than three members), appointed by the Nash County Board of Commissioners, all members shall reside within Nash County.
- (B) Planning Board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies may be filled by the Board of Commissioners for the unexpired terms.
- (C) Members may be appointed to no more than three successive terms.
- (D) Planning Board members may be removed by the Board of Commissioners at any time for failure to attend two consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties.
- (E) If a member moves outside of the County, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed by the Board of Commissioners.
- (F) All members of the Planning Board shall be compensated for attending the regularly scheduled monthly meetings. The rate of compensation shall be determined by the Board of Commissioners. Members shall be expected to attend any specially called meetings of the Board without further compensation.

3-1.3 Meetings of the Planning Board

- (A) The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with the review procedures delineated in this Ordinance.
- (B) Since the Planning Board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures established for the Board of Adjustment. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- (C) Minutes shall be kept of all Planning Board proceedings.

- (D) All Planning Board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.
- (E) Whenever the Planning Board is called upon to make recommendations concerning a zoning amendment proposal, the planning staff shall send written notice to adjoining property owners in accordance with Section 4-7.5(c).

3-1.4 Quorum and Voting

- (A) A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- (B) All actions of the Planning Board shall be taken by majority vote, a quorum being present.
- (C) A roll call vote shall be taken upon the request of any member.

3-1.5 Planning Board Officers

- (A) At its first regular meeting in July of each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- (B) The chairman and vice-chairman may take part in all deliberations. The chairman may vote on all matters. The vice chairman may vote on all issues.
- (C) The Planning Director or his designee shall serve as secretary to the Planning Board.

3-1.6 Powers and Duties of Planning Board

- (A) The Planning Board may:
 - 1) Make studies and recommend to the Board of Commissioners plans, goals and objectives relating to the growth, development and redevelopment of the County planning jurisdiction.
 - 2) Develop and recommend to the Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.

- 3) Make recommendations to the Board of Commissioners concerning proposed zoning text and map changes, as provided by Sections 4-7.4 and 8-3.
 - 4) Review and approve major subdivisions in accordance with Section 10-3.2(E).
 - 5) Hear and decide applications for variances from Watershed Overlay District requirements as provided in Section 12-1.10.
 - 6) Perform any other duties assigned by the Board of Commissioners.
- (B) The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

3-1.7 Advisory Committees

- (A) From time to time, the Board of Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area.
- (B) Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Board of Commissioners shall be made by the Planning Board.
- (C) Nothing in this section shall prevent the Board of Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Board of Commissioners.

3-2 BOARD OF ADJUSTMENT

3-2.1 Authority

There is hereby created a Board of Adjustment pursuant to G.S. 160D-302, to be known as the Nash County Board of Adjustment and referred to herein as the Board of Adjustment.

3-2.2 Appointment and Terms of Board of Adjustment

- (A) There shall be a Board of Adjustment consisting of five regular members and four alternates appointed by the Nash County Board of Commissioners. The Board of Commissioners shall fill vacancies of regular board members with alternate members based on tenure on the board. All members shall reside within Nash County.
- (B) The Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms.

- (C) Members may be reappointed to no more than three successive terms.
- (D) Regular Board of Adjustment members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures.
- (E) If a regular or alternate member moves outside of the county, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.
- (F) An alternate member may sit in lieu of a regular member. When so seated, alternates shall have the same powers and duties as regular members.

3-2.3 Meetings of the Board of Adjustment

- (A) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with procedures delineated in this Ordinance.
- (B) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in this Ordinance and in accordance with its bylaws.
- (C) All meetings of the Board shall be open to the public, and whenever feasible the agenda for each Board meeting shall be made available in advance of the meeting.

3-2.4 Quorum

- (A) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (vacancies and recusals reduce membership if no alternates are available). A quorum is necessary for the Board to take official action.
- (B) A member who has withdrawn from the meeting without being excused as provided in Section 3-2.5 shall be counted as present for purposes of determining whether a quorum is present.

3-2.5 Voting

- (A) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- (B) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (C) or has been allowed to withdraw from the meeting in accordance with subsection (D).
- (C) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (D) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (E) A roll call vote shall be taken for each motion. In the absence of a regular member(s), the alternate(s) with the most tenure on the board shall vote.

3.2-6 Board of Adjustment Officers

- (A) At its first regular meeting in May, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the Board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats).
- (B) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.
- (C) The chairman and vice-chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.
- (D) The Planning director or his designee shall serve as secretary to the Board of Adjustment.

3.2.7 Powers and Duties of Board of Adjustment

- (A) The Board of Adjustment shall hear and decide:
 - 1) Appeals from any order, decision, requirement, or interpretation made by the Zoning Administrator, as provided in Section 7-1.
 - 2) Applications for special use permits, as provided in Section 4-7.7.
 - 3) Applications for general variances, as provided in Section 7-2.
 - 4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 2-3.2.

- 5) Any other matter the Board is required to act upon by any other county ordinance.
- (B) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

3-3 ZONING ADMINISTRATOR

3-3.1 Establishment

Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned to one or more individuals by the county manager. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the 'Zoning Administrator.' The terms 'staff' and 'administrator' are sometimes used interchangeably with the term 'Zoning Administrator'.

3-3.2 Duties of the Zoning Administrator

The Zoning Administrator shall:

- (A) Establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;
- (B) Issue permits and certificates pursuant to this Ordinance;
- (C) Review all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;
- (D) Interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
- (E) Maintain all records pertaining to the provisions of this Ordinance in his office(s) and make said records open for public inspection;
- (F) Periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;
- (G) Cause to be investigated violations of this Ordinance;
- (H) Enforce the provisions of this Ordinance;
- (I) Issue notice of corrective action(s) when required;
- (J) Use the remedies provided in this Ordinance to gain compliance;
- (K) Be authorized to gather evidence in support of said activities;
- (L) Receive appeals and forward cases to the appropriate Board;
- (M) Perform the specific flood damage prevention duties delineated in Section 12-2.7; and

- (N) Perform other duties as may be assigned by the Board of Commissioners.

3-4 PLANNING DIRECTOR

3-4.1 Establishment and Duties

The Planning Director is the administrative head of the planning department. As provided in Section 10-2.2, the Planning Director is authorized to approve minor subdivision final plats, approve major subdivision final plats in accordance with Section 10-3.4 (D), and to perform other duties as authorized by this Ordinance. Unless otherwise noted, the Planning Director is charged with administration of all the provisions of this Ordinance.

3-5 BOARD OF COMMISSIONERS

3-5.1 Duties of the Board of Commissioners

- (A) The Board of Commissioners, in considering amendments to this Ordinance or the zoning map shall follow the regular voting, and other requirements as set forth in other provisions of general law.
- (B) In considering proposed changes in the text of this Ordinance or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Article VIII.
- (C) The Board of Commissioners, in considering the approval of a site specific development plan (as defined in Section 4-15, Vested Rights), shall follow the procedural requirements set forth in Section 4-7 of this Ordinance for the issuance of a conditional zoning district.
- (D) Pursuant to Section 10-3.3 (B) and 10-3.3 (D) (2), the Board of Commissioners shall review and approve, approve with conditions, or disapprove preliminary subdivision plats when the Planning Board or TRC has failed to act on a preliminary subdivision within 60 days from the date that the plat was initially reviewed.

3-6 TECHNICAL REVIEW COMMITTEE

3-6.1 Establishment

There is hereby created a technical advisory committee known as the Technical Review Committee (TRC) consisting of the Planning Director and representatives of the following agencies as designated by the director of each agency: The Nash County Health Department; the Soil Conservation Service; the NC Department of Transportation; Division of Highways; and the public water and/or sewer utility provider serving the development being reviewed. Depending upon the specific aspects of a development proposal, additional members of the TRC may include representatives, as designated by the director of each agency, of the following agencies: the Nash County

School Board, the Rocky Mount Wilson Airport Authority, and the City of Rocky Mount (for the review of development proposals adjoining the Tar River Reservoir).

3-6.2 Duties of the Technical Review Committee

The TRC shall have the following duties:

- (A) To review and comment on the technical aspects of all applications for approval of subdivision plats, major site plans, master development plans, and zoning map amendments.
- (B) To provide the Planning Director, for transmission to the Planning Board, Board of Commissioners, or Board of Adjustment and other appropriate boards and agencies, with reports and recommendations regarding requests for approval before such bodies.
- (C) To perform any other related duties that this Ordinance may authorize or that the Board of Commissioners may direct.

3-6.3 Officers

The Planning Director or his designee shall serve as the chairman of the TRC. The TRC shall appoint a Secretary.

3-6.4 Meetings

- (A) The TRC shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conforming with the review procedures delineated in this Ordinance.
- (B) The TRC may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Ordinance.

3-7 CONFLICTS OF INTEREST

3-7.1 Governing Board

A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

3-7.2 Appointed Boards

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member

shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

3-7.3 Administrative Staff

No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

3-7.4 Quasi-Judicial Decisions

A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

3-7.5 Resolution of Objection.

If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

3-7.6 Familial Relationship

For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

ARTICLE IV
PERMITS AND PROCEDURES

4-1 PERMIT REQUIRED

- (A) No person shall undertake any development activity subject to this Ordinance except in accordance with and pursuant to one of the following permits:
 - (1) A zoning permit or sign permit issued by the Zoning Administrator;
 - (2) A special use permit issued by the Board of Adjustment; or

- (B) Zoning permits, sign permits, special use permits are issued under this Ordinance only when a review of the application submitted, including the site plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided herein, all development shall occur strictly in accordance with such approved plans and applications.

- (C) Physical improvements to land to be subdivided may not be commenced except in accordance with a major subdivision plat approved pursuant to Section 10-3 or a minor subdivision plat approved pursuant to Section 10-2.

4-2 PERMIT EXEMPTIONS

4-2.1 Zoning Permit Exemptions

The following are exempt from zoning permit requirements:

- (A) Farm buildings (other than residences) used for bona fide farm purposes;
- (B) Any accessory building with a building dimension of 12 feet or less; and
- (C) Facilities (other than buildings) of a public utility or an electric or telephone membership corporation.

4-2.2 Sign Permit Exemptions

No sign permit shall be required for signs specifically exempted by Section 11-1.3.

4-3 PERMIT APPLICATIONS AND PLANS

4-3.1 General Requirements

- (A) Submission: Unless otherwise specified, all applications for development approvals may be made by the landowner, a lessee or person holding an option

or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. The Zoning Administrator may require reasonable proof of agency from any person submitting an application. as an agent.

- (B) Form of Submission: An application for any permit under this Ordinance shall be submitted in such form, number of copies and format as required by Appendices 1 and 3, together with such fees as required.
- (C) Waiver of Submission Requirements: The Zoning Administrator may waive submission of required elements of information when, in his opinion, such information is otherwise available or is not necessary to review the application. The Zoning Administrator may refuse to process an incomplete application.
- (D) Processing: All applications for permits shall be submitted, reviewed and processed in accordance with the requirements of this Ordinance.
- (E) Approved Plans: A copy of required plans or information submitted with the application shall be returned to the applicant after the Zoning Administrator has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the Zoning Administrator.
- (F) Health Department Construction Permit Required: A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or for which approval by the State or County Health Department of an existing well or sewage disposal system is required, shall not be issued until such permit or approval has been issued by the State or County Health Department.
- (G) In this Ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (roads, utilities, etc.) are set forth in one or more of the appendices to this Ordinance. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in the text of this Ordinance. However, whenever this Ordinance requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the NCDOT, the applicable utility provider, or other appropriate approval authority. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article V (Enforcement).

4-3.2 Site Plan and Plot Plan Procedures

- (A) Applicability.

- (1) Plot Plan Required: No zoning permit for a single-family or two-family dwelling on a single lot shall be issued until a plot plan, prepared in accordance with Appendix 1, has been approved.
 - (2) Site Plan Required: No other zoning or special use permit shall be issued on a lot until a site plan, prepared in accordance with Appendix 1, has been approved for the development. No new nor amended site plan shall be required if an adequate site plan is already on file, there is no change in the parking requirements, or there is no increase in impervious surface area.
- (B) The Zoning Administrator may waive the requirement for a site plan if, in his judgement, it is determined that it is not necessary to complete the review of the permit application.
- (1) Timing: Site plans shall be submitted to the Zoning Administrator in conjunction with a permit application.
 - (2) Site Plan Compliance: Site plans shall contain all applicable information listed in Appendix 1. A site layout meeting the requirements of Article 10-3.3(C) of this Ordinance may also serve as the preliminary subdivision plat.
- (C) Coordination With Other Procedures. To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with building plan review or other applications for approvals required for the particular project.
- (D) Site Plan and Plot Plan Approval.
- (1) Approval of Site/Plot Plan: The site plan or plot plan shall be approved when it meets all requirements of this Ordinance or proper waivers and/or variances are obtained.
 - (2) Approval Authority:
 - (a) Site plans or plot plans submitted with zoning permit applications shall be approved by the Zoning Administrator.
 - (b) Site plans submitted with special use permit applications shall be approved by the Board of Adjustment.
 - (c) Site plans submitted with conditional zoning request applications shall be approved by the Board of Commissioners.
 - (3) Conditional Approvals: If the site plan is granted conditional approval, the applicant shall revise and resubmit the site plan. The Zoning Administrator shall review the revised site plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the site plan is not revised within sixty days to meet the approval conditions, or

the applicant notifies the Zoning Administrator that he is unwilling to revise the site plan, it shall be deemed denied.

(E) Road and Utility Construction.

- (1) Plans: When required, road and utility construction plans for all public or private roads, and water, sanitary sewer, and storm sewer facilities shall be submitted to the applicable authority following conditional approval or approval of the site plan. For each phase of the site plan, road and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.
- (2) No Construction Without Plan Approval: None of the improvements listed above shall be constructed until the road and utility construction plans for such improvements have been reviewed and approved by the applicable authority.
- (3) Inspections: Work performed pursuant to approved road and utility construction plans shall be inspected and approved by the appropriate authority.

(F) Detention Ponds and Soil Erosion and Sedimentation Control Devices Installation. Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of road and utility construction plans.

4-4 PERMIT ISSUANCE

The issuance of a zoning, sign or special use permit authorizes the recipient to commence the activity resulting in a change in use of the land or, (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, except as provided in Sections 4-8 and 4-9, the intended use may not be commenced and no building may be occupied until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with.

4-5 INSPECTIONS AND INVESTIGATIONS

4-5.1 Periodic Inspections

The Zoning Administrator shall have the right, upon presentation of proper credentials, or inspection warrant, if necessary, to enter on any premises within the planning jurisdiction of Nash County at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

4-5.2 Investigations

The Zoning Administrator shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the

purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

4-5.3 Written Statements

The Board of Commissioners or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

4-6 ZONING AND SIGN PERMITS

- (A) Requests for a zoning or sign permit shall be submitted to the Zoning Administrator by filing an application form with the Zoning Administrator. Applications for a zoning or sign permit may be a separate form or may be combined with the County's building permit application form. In those instances in which the County is administering building inspection services within a municipality's zoning jurisdiction, the applicant shall provide a copy of a zoning permit from the applicable municipality prior to obtaining a building permit.
- (B) The Zoning Administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant, that:
 - (1) The requested permit is not within his authority according to the Table of Permissible Uses; or
 - (2) The application is incomplete; or
 - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.
- (C) The Zoning Administrator shall issue the sign permit unless he finds after reviewing the application and consulting with the applicant that:
 - (1) The requested permit is not in compliance with the requirements of Section 11-1, Signs; or
 - (2) The application is incomplete.

4-7 SPECIAL USE PERMITS

4-7.1 Special Use Permit Review Process

An application for a special use permit shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator in the planning department 25 days prior to the Board of Adjustment meeting at which the request will be reviewed. The review process for a special use permit shall include:

- (A) Planning Department review and recommendation in accordance with Section 4-7.3;
- (B) Public hearing held by the Board of Adjustment; and

- (C) Board of Adjustment review and action.

4-7.3 Recommendations on Special Use Permit Applications

- (A) When presented to the Board of Adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the planning department's proposed findings concerning the application's compliance with Section 4-3 and the other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.
- (B) If the Planning Director proposes a finding or conclusion that the application fails to comply with Section 4-3 or any other requirement of this Ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- (C) The Board of Adjustment may, by general rule applicable to all cases or any class of cases, or on a case-by-case basis, refer applications to the Planning Board to obtain its recommendations.

4-7.5 Public Hearing Requirements and Procedures

- (A) No special use permit shall be approved until a public hearing has been held by the permit-issuing board.
- (B) The Clerk to the Board shall publish a notice of the public hearing in a newspaper having general circulation in the area. The notice shall be published not less than five days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

The notice required by this Section shall:

- (1) State the date, time, and place of the public hearing;
 - (2) Summarize the nature and character of the permit request;
 - (3) Reasonably identify the property affected by the permit request;
 - (4) State that the full permit request application can be reviewed at the office of the Zoning Administrator; and
 - (5) State that substantial changes in the permit request may be made following the public hearing.
- (C) The Zoning Administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 600 feet of the property involved in the permit request.
 - (D) **DELETED**
 - (E) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the permit-issuing board's intention that no failure to comply with any of the notice provisions [except those set forth in subsection (B)] shall render any permit request invalid.
 - (F) At the conclusion of the public hearing, the permit-issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Section 4-7.7, that the Board of Adjustment must take on requests for special use permits.
 - (G) The permit-issuing board is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

- (H) Subject to subsection (I), the Board of Adjustment or the Board of Commissioners, respectively, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:
 - (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
 - (2) The application is incomplete; or
 - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance.
- (I) Even if the permit-issuing board finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
 - (1) Will materially endanger the public health or safety; or
 - (2) Will substantially injure the value of adjoining or abutting property; or
 - (3) Will not be in harmony with the area in which it is to be located; or
 - (4) Will not be in general conformity with the land development plan or other plans officially adopted by the Board of Commissioners.
- (J) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subsection (I) rests on the party or parties urging that the requested permit should be denied.

4-7.7 Board of Adjustment Action on Special Use

- (A) The Board shall consider whether the application is complete. If the Board concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the Board, shall constitute the Board's finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the Board that the application is complete.
- (B) The Board shall consider whether the application complies with all of the applicable requirements of this Ordinance. If a motion to this effect passes, the Board need not make further findings concerning such requirements.

If such a motion fails to pass or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application, and the vote of the number of members equal to more than one fifth of the board membership (excluding vacant seats) in favor of such a motion shall be sufficient to constitute such motion a finding of the Board. As provided in Subsection 4-7.5(H), if the Board concludes that the application fails to meet one or more of the requirements of this Ordinance, the application shall be denied.

- (C) If the Board concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subsection 4-7.5(I). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote.

4-7.8 Additional Requirements on Special Use

- (A) Subject to subsection (B), in granting a special use permit, the Board of Adjustment may attach to the permit such reasonable requirements, with the written consent of the applicant, in addition to those specified in this Ordinance as will ensure that the development in its proposed location:
 - (1) Will not endanger the public health or safety;
 - (2) Will not injure the value of adjoining or abutting property;
 - (3) Will be in harmony with the area in which it is located; and
 - (4) Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the Board of Commissioners.
- (B) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this Ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- (C) Without limiting the foregoing, the permit-issuing board may attach to a permit a condition limiting the permit to a specified duration.
- (D) All additional conditions or requirements shall be entered on the permit.
- (E) All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance.
- (F) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subsections 4-7.5(H) or 4-7.5(I).

4-8 AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT UNDER ZONING, SPECIAL USE PERMITS

- (A) In cases when, because of weather conditions or other factors beyond the control of the zoning or special use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides an adequately secured performance bond or other security satisfactory to the permit-issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months). The proposed performance bond and security shall be reviewed and approved by the County attorney, however, prior to the permit-issuing authority authorizing the intended use or occupancy.
- (B) When the permit-issuing board imposes additional requirements upon the special use permit recipient in accordance with Section 4-7.8 or when the developer proposes in the plans submitted to install amenities beyond those required by this Ordinance, the permit-issuing board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
 - (1) A performance bond and security satisfactory to the county attorney is furnished;
 - (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
 - (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 5-4 and Section 5-6.

4-9 COMPLETING DEVELOPMENTS IN PHASES

- (A) If a development is constructed in phases or stages in accordance with this Section, then, subject to subsection (C), the provisions of Section 4-4 and Section 4-8 shall apply to each phase as if it were the entire development.
- (B) As a prerequisite to taking advantage of the provisions of subsection (A), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Ordinance that will be satisfied with respect to each phase or stage.
- (C) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as

part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:

- (1) If the improvement is one required by this Ordinance then the developer may utilize the provisions of Section 4-8(A); or
- (2) If the improvement is an amenity not required by this Ordinance or is provided in response to a condition imposed by the permit-issuing board, then the developer may utilize the provisions of Section 4-8(B).

(D) A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. A multi-phased development is a development containing 25 acres or more that is both of the following: a) Submitted for development permit approval to occur in more than one phase and b) Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

4-10 EXPIRATION OF PERMITS

- (A) Except as provided in subsection (F), zoning, special use, and sign permits (including approved site or plot plans) shall expire automatically if, within one year after the issuance of such permits:
- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
 - (2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 4-9), this requirement shall apply only to the first phase.
- (B) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the zoning, special use, or sign permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 4-11.
- (C) The permit-issuing authority may extend for a period up to one year the date when a zoning, special use, or sign permit would otherwise expire pursuant to subsections (A) or (B) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to one year upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit. (Amended 12/7/2020, A-201101)
- (D) For purposes of this Section, the permit within the jurisdiction of the Board of Adjustment or the Board of Commissioners is issued when such board votes to approve the application and issue the permit. A zoning or sign permit within the jurisdiction of the Zoning Administrator is issued when the earlier of the following takes place:
- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is delivered to the permit applicant; or
 - (2) The Zoning Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded, if required under Section 4-11(B).
- (E) Notwithstanding any of the provisions of Article VI (Nonconforming Situations), this Section shall be applicable to permits issued prior to the date this Section becomes effective.

4-11 EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS

- (A) Zoning, special use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
 - (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
 - (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.
- (B) Whenever the recording of a special use permit is required by the Board of Adjustment as a condition of approval, nothing authorized by the permit may be done until the record owner of the property provides documentation that indicates that the permit has been recorded in the Nash County Registry and indexed under the record owner's name as grantor.

4-12 AMENDMENTS TO AND MODIFICATIONS OF PERMITS

- (A) Insignificant deviations from the permit (including approved plans and preliminary plats) approved by the Board of Commissioners, the Board of Adjustment, or the Zoning Administrator are permissible and the Zoning Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (B) Minor design modifications or changes in permits (including approved plans and preliminary plats) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (C) All other requests for changes in approved plans and preliminary plats will be processed as a modification to the original application. If such requests are to be acted upon by the Board of Commissioners or Board of Adjustment, new conditions may be imposed only on the specific site or area requested to be modified in accordance with Section 4-7.8, but the applicant retains the right to

reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

- (D) The Zoning Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (A), (B), and (C).
- (E) A developer requesting approval of changes shall submit a written request for such approval to the Zoning Administrator, which request shall identify the changes. Approval of all changes must be given in writing.
- (F) A vested right established in accordance with Section 4-15 shall not be extended by any amendments or modifications to an approved site specific vesting plan unless expressly provided for by the Board of Commissioners.

4-13 RECONSIDERATION OF BOARD ACTION ON SPECIAL USE PERMITS

- (A) Whenever the Board of Adjustment disapproves an application for a special use permit, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
 - (1) Circumstances affecting the property that is the subject of the application have substantially changed; or
 - (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Administrator within the time period for an appeal to superior court (see Section 5-7). However, such a request does not extend the 30-day period within which an appeal must be taken.
- (B) The Board of Adjustment may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

4-14 MAINTENANCE OF COMMON AREAS, IMPROVEMENTS, AND FACILITIES

The recipient of any zoning, special use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and that required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Specific operation and maintenance agreements are required for developments located within watershed protection overlay districts that must provide stormwater control structures (see Sections 12-1.12 through 12-1.15).

4-15 ZONING VESTED RIGHTS

- (A) A vested right shall be established upon the approval or conditional approval of a site specific vesting plan by the Board of Commissioners in accordance with the provisions outlined in this section and within G.S. 160D-108. A right which has been vested as provided for in this section shall, as a general rule, remain valid for two years and shall attach to and run with the land. The Board of Commissioners may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.
- (B) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this subsection shall have the meaning indicated when used in this section.
- (1) Landowner. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific vesting plan.
- (2) Property. All real property subject to the regulations and restrictions of this Ordinance as well as the zoning district boundaries established by this Ordinance and depicted on the official zoning map.
- (3) Site specific vesting plan. A plan which has been submitted to Nash County by a landowner describing in detail the type and intensity of use for a specific parcel or parcels of property. Such plan shall be in the form of a site plan required to obtain a conditional zoning request or in the form of a preliminary plat. The information required by Section 4-3, Section 10-3.3, and Appendix 1, as applicable, shall be included. All site specific vesting plans shall be approved by the Board of Commissioners.
- (4) Vested right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific vesting plan.
- (C) A vested right shall be deemed established upon the effective date of approval by the Board of Commissioners of a site specific vesting plan. Following the approval of a site specific vesting plan, the Zoning Administrator shall issue a vested right certificate to the landowner which indicates the duration of the vesting period, the conditions, if any, imposed on the approval of the site specific vesting plan, and any other information determined by the Zoning Administrator to be necessary to administer the vested right.
- (D) A vested right shall confer upon the landowner the right to undertake and complete the development and use of the property as delineated in the approved site specific vesting plan. The Board of Commissioners may approve a site

specific vesting plan upon such terms and conditions as may be determined necessary to protect the public health, safety, and welfare. Failure to comply with the approved terms and conditions shall result in a forfeiture of vested rights.

- (E) Changes in or modifications to an approved site specific vesting plan shall be made only with the concurrence of the Board of Commissioners in accordance with the provisions of Section 4-12.
- (F) A vested right obtained under this section runs with the land and is valid for two to five years from the effective date of approval by the Board of Commissioners of a site specific vesting plan. A vested right shall not be extended by any amendments or modifications to an approved site specific vesting plan unless expressly provided for by the Board of Commissioners. A vested right shall expire at the end of two to five years if no building permit applications have been filed with the County to construct the use or uses proposed in the approved site specific vesting plan. If building permits are issued, the provisions of G.S. 160D-403(c) and G.S. 160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the two-year vesting period.
- (G) A vested right, once established or provided for in this section, precludes any zoning action by the County which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the approved site specific vesting plan, except:
 - (1) With the written consent of the affected landowner,
 - (2) Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific vesting plan;
 - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
 - (4) Upon findings, by ordinance after notice and a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the County of the site specific vesting plan; or
 - (5) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site specific vesting plan, in which case the County may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.

- (H) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.
- (I) Notwithstanding any provisions of this section, the establishment of a vested right shall not preclude, change, or impair the authority of the County to enforce provisions of this Ordinance governing nonconforming situations or uses.
- (J) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise such vested rights.
- (K) The County shall not require a landowner to waive his vested rights as a condition of developmental approval.

4-16 ZONING COMPLIANCE

- (A) No building shall be occupied, no land shall be used, and the use of any land shall not be changed until a certificate of zoning compliance has been issued by the Zoning Administrator.
- (B) The certificate of zoning compliance shall state that the building and/or proposed use of land complies with the provisions of this Ordinance.
- (C) The certificate of zoning compliance shall be presented by the applicant to the Nash County Building Inspector prior to the county s issuance of a Certificate of Occupancy.

ARTICLE V
ENFORCEMENT

5-1 VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

5-1.1 Development Without Permit

A 'development without a permit' violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without required permits, certificates or other forms of authorization as set forth in this Ordinance.

5-1.2 Development Inconsistent With Permit

A 'development inconsistent with a permit' violation means to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

5-1.3 Violation by Act or Omission

A 'violation by act or omission' means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Board of Commissioners or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

5-1.4 Use in Violation

A 'use in violation' means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

5-1.5 Subdivide in Violation

A 'subdivide in violation' means to subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance. Building permits shall be withheld on lots that have been subdivided in violation of this ordinance.

5-1.6 Continue a Violation

Each day's violation of any provision of this Ordinance is a separate and distinct offense.

5-2 ENFORCEMENT INTENT

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Administrator's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law and must be filed with the Nash County Clerk of Court within the 30-day appeal period described in Section 5-7.2. It is further the intention of this Ordinance that the duties of the Board of Commissioners in connection with this Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

5-3 ENFORCEMENT PROCEDURES

When the Zoning Administrator or his agent finds a violation of this Ordinance or receives a complaint alleging a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

5-3.1 Notice of Violation

When staff determines work or activity has been undertaken in violation of a development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

The notice shall state:

- (A) that the land, building, sign, structure, or use is in violation of this Ordinance;
- (B) the nature of the violation, and citation of the Section of this Ordinance violated;
and
- (C) the measures necessary to remedy the violation.

5-3.2 Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment, in accordance with the

provisions of 7-1, within thirty days following the date of the Notice of Violation, in the case of Article 12-2, Flood Hazard Overlay, a hearing will be held at a designated place and time, not later than ten (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. Throughout the appeal process enforcement shall be paused in accordance with G.S. 160D-405. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Administrator in the Notice of Violation shall be final.

5-3.3 Order of Corrective Action

If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance within a specified time period, not less than sixty (60) days, nor more ninety (90) days. Where there is imminent danger to life or other property, an order for corrective action may be taken in such lesser period as may be feasible.

5-3.4 Failure to Comply with an Order

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 5-4. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

5-4 PENALTIES AND REMEDIES

Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

5-4.1 Injunction

Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

5-4.2 Civil Penalties

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 5-5.

5-4.3 Denial of Permit or Certificate

The Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is

an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

5-4.4 Conditional Permit

The Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the county attorney.

5-4.5 Revocation of Permits

In accordance with Section 5-6, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

5-4.6 Criminal Penalties

Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4.

5-4.7 State and Common Law Remedies

In addition to other enforcement provisions contained in this Article, the Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

5-5 CIVIL PENALTIES—ASSESSMENT AND PROCEDURES

5-5.1 Penalties

Any person who violates any provisions of this Ordinance shall be subject to assessment of \$100 per day.

5-5.2 Notice

No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 5-3.1. If after receiving a notice of violation under Section 5-3.1, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen days of the date of the notice.

5-5.3 Responsible Parties

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation

of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

5-5.4 Continuing Violation

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to \$100 per day civil penalty.

5-5.5 Demand for Payment

The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

5-5.6 Nonpayment

If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Zoning Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

5-6 PERMIT REVOCATION

5-6.1 General

A zoning, sign, or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the approved plans, the requirements of the Ordinance, or any additional requirements lawfully imposed by the permit-issuing board.

No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, or special use permit after such permit has been revoked in accordance with this Section.

5-6.2 Special Use Permit Revocation

Before a special use permit may be revoked, all of the notice and hearing requirements of Section 4-7.5 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

5-6.3 Zoning or Sign Permit Revocation

Before a zoning or sign permit may be revoked, the Zoning Administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

5-7 JUDICIAL REVIEW

5-7.1 Appeal to Superior Court

Every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Nash County by proceedings in the nature of certiorari.

5-7.2 Timing of Appeal

The petition for the writ of certiorari must be filed with the Nash County Clerk of Court within 30 days after the later of the following occurrences:

- (A) A written copy of the Board of Commissioner's or Board of Adjustment's decision has been filed in the office of the Zoning Administrator.
- (B) A written copy of the Board of Commissioner's or Board of Adjustment's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the County of Nash.

ARTICLE VI

NONCONFORMING SITUATIONS

6-1 GENERAL

A nonconforming situation occurs when, on the effective date of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this Ordinance, because signs do not meet the requirements of this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

Unless otherwise specifically provided for in this Ordinance and subject to the restrictions and qualifications set forth in the remaining sections of this Article, nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued. Whenever this Article refers to the effective date of this Ordinance, the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a nonconforming situation.

6-2 NONCONFORMING LOTS

6-2.1 Single Lot of Record with Lot Area and/or Lot Width Nonconformity

- (A) When an undeveloped lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was approved and of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided that the setback dimensions and other requirements, except area or width, are complied with.
- (B) In residential zones, only a single-family dwelling shall be permitted on the nonconforming lot.
- (C) Nothing contained herein exempts a lot from meeting the applicable provisions of the Nash County Board of Health regulations.

6-2.2 DELETED

6-2.3 Reduction of a Lot of Record

A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

6-2.4 Lot of Record with Setback Nonconformity

When the use proposed for an undeveloped nonconforming lot is one that is conforming in all other respects except that the applicable setback requirements cannot reasonably be complied with, then the entity authorized by this Ordinance to issue a permit for the proposed use (the Zoning Administrator, Board of Adjustment, or Board of Commissioners) may allow deviations from the applicable setback requirements if it finds that:

- (A) The property cannot reasonably be developed for the use proposed without such deviations;
- (B) The deviations are necessitated by the size or shape of the nonconforming lot; and
- (C) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

6-3 NONCONFORMING USE OF LAND

6-3.1 Continuance of Nonconforming Use of Land

Any nonconforming use legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this Section.

6-3.2 Conditions for Continuance

Such nonconforming use of land shall be subject to the following conditions:

- (A) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Adjustment shall consider:
 - (1) probable traffic of each use;
 - (2) parking requirements of each use;
 - (3) probable number of persons on the premises of each use at a time of peak demand;
 - (4) off-site impacts of each use, such as noise, glare, dust, vibration or smoke and other impacts on surrounding properties or the public health or safety.
- (B) The number of dwelling units in a nonconforming residential use shall not be increased.
- (C) No such nonconforming 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.

- (D) If any nonconforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be a permitted use in the district in which such land is located.
- (E) The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
- (F) No additional structure(s) not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

6-3.3 Extension, Enlargement or Replacement of a Nonconforming Use

- (A) Except as provided for in subsection (B) through (F), no nonconforming use shall be extended, enlarged, or replaced.
- (B) Any single-family residential nonconforming use (which may be a manufactured home) may be enlarged or replaced with a similar single-family residential structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback requirements.
- (C) Any other nonconforming use may be extended, enlarged, or replaced only upon the issuance of a special use permit if the Board of Adjustment finds that, in completing the extension, enlargement, or replacement work:
 - (1) there is no increase in the total amount of lot area devoted to the nonconforming use;
 - (2) there is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements; and
 - (3) there is no significant adverse impact on surrounding properties or the public health or safety.

In issuing a special use permit, the Board of Adjustment may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

- (D) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection (C).
- (E) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted

if ten percent or more of the natural materials had already been removed on the effective date of this Ordinance.

- (F) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other Sections of this Article occur.

6-4 NONCONFORMING STRUCTURES

6-4.1 Continuance of Nonconforming

Any nonconforming structure legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful.

6-4.2 Conditions for Continuance

Such nonconforming structures shall be subject to the following conditions:

- (A) No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however, any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirements.
- (B) *(Repealed 12/5/11)*
- (C) Any lawfully established nonconforming structure damaged or destroyed by fire or other causes may be replaced or reconstructed in the same location as the original structure, provided that:
 - (1) The replacement or reconstruction does not create new nonconformities or increase the extent, scale, scope or intensity of any previously existing nonconformities of the original structure;
 - (2) Any dimensional nonconformities of the original structure are corrected to the extent reasonable and practicable; and
 - (3) The permits required for the replacement or reconstruction of the nonconforming structure are issued within one (1) year after the date that the damage or destruction necessitating the replacement or reconstruction occurred. *(Amended 12/5/11)*
- (D) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the NC State Building Code.

6-4.3 Preservation of Safe or Lawful Conditions

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful by the County Building Inspector or other duly authorized official.

6-5 MISCELLANEOUS NONCONFORMING SITUATIONS

6-5.1 Nonconforming Situation Resulting From Governmental Acquisition

Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this Ordinance.

6-5.2 Nonconforming Parking Created By Change of Use

Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this Ordinance for the proposed new use can not be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a nonconforming situation. However, the permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available and may require that satellite parking space be obtained.

6-6 NONCONFORMING PROJECTS

All nonconforming projects on which construction was begun at least 180 days before the effective date of this Ordinance as well as all nonconforming projects that are at least ten percent completed in terms of the total expected cost of the project on the effective date of this Ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this Section shall apply only to the particular phase under construction. In addition, as provided in G.S. 160D-604, neither this Ordinance nor any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to G.S. 160D-403 prior to the enactment of the Ordinance making the change so long as the building permit remains valid, unexpired, and unrevoked.

6-7 NONCONFORMING SIGNS

6-7.1 Continuance of Nonconforming Signs

Signs in existence on the effective date of this Ordinance which do not conform to the provisions of this Ordinance, but which were constructed, erected, affixed or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs. Although it is generally not the intent of this Ordinance to encourage the continued use of nonconforming signs, nonconforming signs shall be allowed to continue and a decision as to the continued existence and use or removal of such signs shall be controlled as follows:

(A) Type I – Advertising Signs, Billboards

- (1) A nonconforming Type I – Advertising Sign or Billboard that has been removed, damaged, or destroyed may be repaired, replaced, relocated to a different site on the same property, or structurally altered provided that:

- (a) The repaired, replaced, relocated, or structurally altered sign shall not exceed the dimensions of the original sign including the sign height and sign area;
 - (b) The repair, replacement, relocation, or structural alteration shall not create any new nonconformities or increase the extent, scale, scope, or intensity of any previously existing nonconformities of the original sign with respect to the provisions of this Ordinance;
 - (c) The repair, replacement, relocation, or structural alteration shall correct any previously existing nonconformities of the original sign with respect to the provisions of this Ordinance to the extent that such corrections are reasonable and practicable; and
 - (d) The permits required for the repair, replacement, relocation, or structural alteration of the nonconforming sign shall be issued within 180 days after the date that the sign was removed, damaged, or destroyed.
- (2) Otherwise the removed, damaged, or destroyed nonconforming Type I – Advertising Sign or Billboard shall not be repaired, replaced, relocated, or structurally altered and any remains of the sign must be completely removed from the site.
 - (3) Changes in the words or symbols used or the message displayed on a nonconforming Type I – Advertising Sign or Billboard are permitted, provided that the sign was specifically designed for periodic change of message. (Amended 9/5/2017, A-170801)
- (B) All Other Signs
- (1) No nonconforming sign shall be changed to another nonconforming sign.
 - (2) No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.
 - (3) No nonconforming sign shall be structurally altered so as to change the shape, size, type or design of the sign other than to make the sign a conforming sign.
 - (4) No nonconforming sign shall be re-established after the activity, business or use to which it relates has been discontinued and such sign shall be removed.
 - (5) No nonconforming sign shall be re-established and all remains of the sign must be removed after damage or destruction, if the estimated expense of repairs exceeds fifty percent of the estimated total value of the sign at the time of destruction, as determined by the Building Inspector. If damaged by less than fifty percent, but repairs are not made within three

months of the time such damage occurred, the nonconforming sign shall not be allowed to continue and must be removed.

- (6) No nonconforming sign shall be structurally altered, relocated, or replaced unless it is immediately brought into conformance with all the requirements of this Ordinance. (Amended 9/5/2017, A-170801)
- (7) Normal maintenance and repair of a nonconforming sign is permitted providing the shape, size, type or design of the sign is not altered.
- (B) Any nonconforming sign which is structurally altered, relocated or replaced shall immediately be brought into compliance with all the provisions of this Ordinance.
- (C) Any nonconforming sign which (i) is a menace to the public safety, (ii) has been abandoned, or (iii) which has not been properly maintained, including cleaning and painting of painted surface areas and replacement of damaged parts, shall be removed after due notice has been given by the Zoning Administrator.

6-7.2 Violations of Nonconforming Sign Provisions

The Zoning Administrator shall order the removal of any sign maintained in violation of the provisions of this Section for which removal procedures are herein prescribed, accordingly: the Zoning Administrator shall give ninety days written notice to the owner or lessee to remove the sign or to bring it into compliance with this Ordinance. If the owner or lessee fails to remove the sign within ninety days after the ninety-day written notice has been given, the Zoning Administrator or his duly authorized representative may institute removal proceedings according to the procedures specified in NCGS 153A-123.

ARTICLE VII

APPEALS, VARIANCES, INTERPRETATIONS

7-1 APPEALS

- (A) An appeal from any final order or decision of the Zoning Administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Zoning Administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the Zoning Administrator and the Board of Adjustment when delivered to the Office of County Planning, the required filing fee paid, and the date and time of filing entered on the notice by the planning staff.
- (B) The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (C) Whenever an appeal is filed, the Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from.
- (D) An appeal stays all actions by the Zoning Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Zoning Administrator certifies to the Board of Adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Zoning Administrator.
- (E) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

7-2 VARIANCES

7-2.1 General

- (A) An application for a variance (except for variances from the Watershed District Overlay requirements) along with the required filing fee shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator. Applications for a variance from the Watershed District Overlay requirements along with the required filing fee shall be submitted to the Planning Board by filing a copy of the application with the Zoning Administrator.

- (B) When unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:
- (1) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or the general public, may not be the basis for granting a variance;
 - (3) The hardship did not result from actions taken by the applicant or th property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship;
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved; and
 - (5) The variance will neither result in the extension of a nonconforming situation in violation of Article VI nor authorize the intitiation of a nonconforming use of land.
- (C) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
- (D) A variance may be issued for an indefinite duration or for a specified duration only. Unless otherwise specified, any order or decision of the Board of Adjustment granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within 60 days from the date of the decision or if construction of the use has not commenced within 180 days from the date of the issuance of a building permit.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.
- (F) No change in permitted uses may be authorized by variance. Use variances are specifically prohibited.

(Amended 2/3/2014, A-140102)

7-2.2 Variances From Flood Hazard Overlay District Requirements

- (A) In passing upon an application for a variance from the Flood Hazard Overlay District Requirements (Section 12-2), the Board of Adjustment, as established by

Section 3-2, shall consider all technical evaluations, all relevant factors, all standards specified in other Sections of this Ordinance, and:

- (1) the danger that materials may be swept onto other lands to the injury of others;
- (2) the danger of life and property due to flooding or erosion damage;
- (3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) the importance of the services provided by the proposed facility to the community;
- (5) the necessity of the facility of a waterfront location, where applicable;
- (6) the availability of alternative locations on the subject property, not subject to flooding or erosion damage, for the proposed use;
- (7) the compatibility of the proposed use with existing and anticipated development;
- (8) the relationship of the proposed use to the land development plan and floodplain management program for that area;
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and roads and bridges.

Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance. Variances are subject to review by the Federal Emergency Management Agency.

- (B) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (C) Conditions for variances:
 - (1) Variances may not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (3) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local law or ordinances.
 - (4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
 - (5) The Zoning Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (D) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in subsections (A) and (C).

7-2.3 Variances From Watershed District Overlay Requirements

Variances to the provisions of Section 12-1, Watershed Protection Overlay District Regulations shall be reviewed by the Planning Board pursuant to the requirements and procedures of Section 12-1.10.

7-2.4 Variances from Airport District Overlay Requirements

Variances to the provisions of Section 12-6, Airport Overlay District Requirements shall be reviewed by the Board of Adjustment pursuant to the requirements and procedures of Section 12-6.7.4 and Section 7-2. Application for a variance from the provisions of Section 12-6 shall include evidence of compliance with the airport notification requirements of Section 12-6.7.4

7-3 INTERPRETATIONS

- (A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Administrator, they shall be handled as provided in Section 7-1.
- (B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Zoning Administrator. The

application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

- (C) Interpretations of the location of floodway and floodplain boundary lines may be made by the Zoning Administrator as provided in Section 12-2.8.

7-4 REQUESTS TO BE HEARD EXPEDITIOUSLY

The Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 7-8, and obtain the necessary information to make sound decisions.

7-5 BURDEN OF PROOF IN APPEALS AND VARIANCES

- (A) When an appeal is taken to the Board of Adjustment in accordance with Section 7-1, the Zoning Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 7-2.1(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

7-6 BOARD ACTION ON APPEALS AND VARIANCES

- (A) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the simple majority vote necessary for adoption, then the motion is not approved.
- (B) Before granting a variance, the Board of Adjustment must take a vote and vote affirmatively (by a 4/5 majority) on the required findings stated in subsection 7-2.1(B). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 7-2.1(B) shall include a statement of the specific reasons or findings of fact supporting such motion.
- (C) A motion to deny a variance may be made on the basis that any one or more of the six criteria set forth in Section 7-2.1(B) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board of Adjustment's decision if supported by more than one fifth of the Board's membership (excluding vacant seats).

7-7 HEARING PROCEDURES REQUIRED ON APPEALS AND VARIANCES

- (A) Before making a decision on an appeal or an application for a variance, the Board of Adjustment shall hold a hearing on the appeal or application.
- (B) Subject to subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (C) The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published.
- (E) The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness.

7-8 NOTICE OF HEARING

The Zoning Administrator shall give notice of any hearing required by Section 7-7 as follows:

- (A) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten days before the hearing.
- (B) Notice shall be given to neighboring property owners by mailing a written notice not later than ten days before the hearing to those persons who have listed for taxation real property any portion of which is located within 600 feet of the lot that is the subject of the application or appeal.
- (C) The notice required by this Section shall state the date, time and place of the hearing, reasonably identify the property that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

7-9 EVIDENCE

- (A) The provisions of this Section apply to all hearings for which a notice is required by Section 7-7.
- (B) All persons who intend to present evidence to the Board of Adjustment, rather than arguments only, shall be sworn.
- (C) All findings and conclusions necessary to the issuance or denial of the requested appeal or variance (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably

available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

7-10 MODIFICATION OF APPLICATION AT HEARING

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator.

7-11 RECORD

- (A) A record shall be made of all hearings required by Section 7-7, and such record shall be kept as provided by state law. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
- (B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings.

7-12 WRITTEN DECISION

- (A) Any decision made by the Board of Adjustment regarding an appeal or variance shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
- (B) In addition to a statement of the Board of Adjustment's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts.

ARTICLE VIII
AMENDMENTS

8-1 AMENDMENTS IN GENERAL

- (A) Amendments to the text of this Ordinance or to the zoning map may be made in accordance with the provisions of this Article.
- (B) Conditional zoning district requests shall be made in accordance with the provisions of Section 8-7.
- (C) As provided in G.S. 160D-403(, amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) a building permit has been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to G.S. 160D-403(c) and unrevoked pursuant to G.S. 160D-403(f) or (ii) a vested right has been established pursuant to NCGS 153A-344.1 and the provisions of Section 4-15 of this Ordinance and such vested right remains valid and unexpired.

8-2 INITIATION OF AMENDMENTS *(Amended 2/7/11)*

- (A) Any person, organization, municipal corporation or political subdivision may petition the Board of Commissioners to amend this Ordinance. The petition shall be filed with the Zoning Administrator and shall include, among the information deemed relevant by the Zoning Administrator:
 - (1) The name, address, and phone number of the applicant;
 - (2) The relevant tax parcel numbers of the land affected by the amendment if a change in zoning district classification is proposed. Also, a metes and bounds description and/or a scaled map of the land may be required at the discretion of the Zoning Administrator when the proposed change affects only a portion of an existing tract of land or when more accurate boundary information is required.
 - (3) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this Ordinance.
- (B) Reserved.

8-3 PLANNING BOARD REVIEW AND RECOMMENDATION

- (A) Upon receipt of a petition for an amendment, the Zoning Administrator shall forward the request to the Planning Board for its consideration.
- (B) The Planning Board shall review the proposed amendment and submit its recommendation to the Board of Commissioners. The Planning Board shall have

45 days within which to submit its recommendation. Failure of the Planning Board to submit its recommendation within this time period shall constitute a favorable recommendation. Members of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

8-4 BOARD OF COMMISSIONERS REVIEW AND ADOPTION

- (A) If the Planning Board recommends or does not recommend the adoption of a proposed amendment, the Zoning Administrator shall consult with the Clerk to the Board to establish and schedule a public hearing before the Board of Commissioners on the petition unless the petition is withdrawn by the applicant. The public notice required for the public hearing shall be in accordance with Section 8-5.
- (B) **DELETED**
- (C) At the conclusion of a public hearing on the proposed amendment, the Board of Commissioners may proceed to vote on the proposed amendment, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. A member of the Board of Commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the matter.
- (D) The Board of Commissioners need not await the recommendations of the Planning Board before taking action on a proposed amendment nor is the Board of Commissioners bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.
- (E) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
- (F) Voting on amendments to this Ordinance shall proceed in the same manner as other ordinances.

8-5 PUBLIC HEARING REQUIREMENTS *(Amended 2/7/11)*

- (A) No ordinance that amends any of the provisions of this Ordinance may be adopted until a public hearing has been held on such ordinance.
- (B) Advertisd Notice - The Clerk to the Board shall publish a notice of the public hearing on any ordinance that amends the provisions of this Ordinance once a week for two successive weeks in a newspaper having general circulation in the County. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the public hearing. In computing this period, the date of publication shall not be counted but the date of the public hearing shall be.

- (C) Mailed Notice - With respect to map amendments, the Zoning Administrator shall provide first class mailed notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties within 600 feet of the property rezoned by the amendment. These notices shall be mailed not less than ten days nor more than twenty-five days prior to the date fixed for the public hearing before the Board of Commissioners.
- (1) The mailed notice required or authorized by this Section shall:
- (A) State the date, time, and place of the public hearing;
 - (B) Summarize the nature and character of the proposed change;
 - (C) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
 - (D) State that the full text of the amendment can be obtained from the Office of the Zoning Administrator; and
 - (E) State that substantial changes in the proposed amendment may be made following the public hearing.
- (2) The person or persons mailing notices to adjoining property owners, as defined in NCGS 153A-343, shall certify to the Board of Commissioners that fact.
- (D) Notice for Large Scale Rezoning - The notice required in subsection (C) shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners. In this instance, the County shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and that explains the nature of the proposed change. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to subsection (C). The person or persons mailing the notices shall certify to the Board of Commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud.
- (E) Posting Notice - When a zoning map amendment is proposed, the County shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

- (F) Third Party Rezoning Applications - Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (C) of this section shall be provided to the owner of the property unless the applicant is acting pursuant to a valid option or contract to purchase. The County shall provide notice by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. Down-zoning by a third party, as defined by G.S. 160D-601, is strictly prohibited. This subsection does not apply to a county initiated zoning map amendment.

8-6 ULTIMATE ISSUE BEFORE BOARD OF COMMISSIONERS ON AMENDMENTS

In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Chairman and excluded. When considering proposed map amendments:

- (A) Except for rezoning requests submitted in accordance with Section 8-7, the Board of Commissioners shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board of Commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
- (B) The Board of Commissioners shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.
- (C) Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning amendment is adopted and the action was deemed inconsistent with the comprehensive plan, the zoning amendment shall have the effect of also amending any future land development plan map.

8-7 CONDITIONAL ZONING DISTRICT

- (A) There are circumstances in which a general zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of this Ordinance and the adopted Land Development Plan. The review process established in this Section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties.
- (B) The conditional zoning district approval process is established to address those situations when a particular use may be acceptable but the general zoning district which would allow that use would not be acceptable. It allows the Board of Commissioners to approve a proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time. Uses which may be proposed and considered for a conditional zoning district shall be restricted to those uses permitted in the underlying general zoning district either by right or by special use permit.
- (C) No conditional zoning district shall be established until after the person proposing the district has submitted a petition for the reclassification of property and the Board of Commissioners has approved such petition in accordance with the procedures delineated in Sections 8-2 through 8-4. Every petition for the reclassification of property to a conditional zoning district shall be accompanied by a site plan containing the requisite information specified in Appendix 1. In the course of evaluating the proposed use, the Board of Commissioners may request additional information deemed appropriate to provide a complete analysis of the proposal.
- (D) The Board of Commissioners may approve the reclassification of property to a conditional zoning district only upon determining that the proposed use will meet all standards and requirements in these regulations that are applicable to the proposed use. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may attach, with written approval by the applicant, reasonable and appropriate conditions to approval of the petition. Voting on amendments to this Ordinance shall proceed in the same manner as other ordinances. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or that the petitioner may propose. Such conditions to approval of the petition may include dedication of any rights-of-way or easements for roads, water, sewer, or other public utilities necessary to serve the proposed development. Such conditions shall not include architectural review or controls. The petitioner shall have a

reasonable opportunity to consider and agree to any such proposed conditions prior to final action by the Board of Commissioners.

- (E) If a petition is approved under this Section, the district that is established the approved conditional zoning district petition and all conditions which may have been attached to the approval are binding on the property as an amendment to this Ordinance and to the zoning map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional zoning district, the approved petition, and all conditions attached to the approval. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and site plan. Any uses and structures on the subject property shall also comply with all standards and requirements for development in the underlying general zoning district.
- (F) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation. A conditional zoning district shall be identified by the same designation as a general zoning district followed by the letters 'CZ' [for example, R-30-CZ].
- (G) Except as provided in subsection (H), changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to this Ordinance or to the zoning map and shall be processed in accordance with the procedures in this Article.
- (H) Minor changes in the detail of the site plan which will not alter the basic relationship of the proposed development to surrounding properties or the standards and requirements of these regulations or to any conditions attached to the approval may be approved by the Zoning Administrator without going through the amendment process or a public hearing. The Zoning Administrator, at his discretion, may forward any application for changes in detail to the Board of Commissioners for its consideration as an amendment to this Ordinance or the zoning map. The applicant may appeal the decision of the Zoning Administrator to the Board of Adjustment for review and decision as to whether an amendment to the approved district shall be required.

8-8 AMENDMENTS TO WATERSHED PROTECTION PROVISIONS

The Zoning Administrator shall keep a record of all text amendments to this Ordinance which involve regulations, standards, or procedures regarding public water supply watersheds as outlined in Section 12-1. Copies of all such amendments shall, upon adoption, be provided to the Supervisor of the Classification and Standards Group, Water Quality Section, NC Division of Environmental Management. Under no circumstances shall an amendment be adopted which would cause this Ordinance to violate the public water supply watershed rules as adopted by the NC Environmental Management Commission.

8-9 AMENDMENTS TO FLOOD HAZARD ZONING AND FLOOD HAZARD BOUNDARY MAP

- (A) All requests for revisions of areas of special flood hazard boundaries and base flood elevations shall be reviewed and approved by the Federal Emergency Management Agency.
- (B) The existing location of any area of special flood hazard as defined in Section 12-2 may be amended in cases where:
 - (1) A flood control project of the federal, state, county or municipal government has substantially altered the flood hazard;
 - (2) Flood data indicates that the boundaries of either of the areas as shown on the official flood boundary and floodway map are no longer correct; or
 - (3) A private individual, corporation, firm or municipal agency has submitted plans for a channel improvement or relocation requiring an amendment to the official flood hazard boundary map.
- (C) Applications for an amendment to the official flood boundary and floodway map shall be processed in the same manner as an amendment to the official zoning map. The applicant shall be responsible for submitting the proposed amendment and supporting documentation to the Federal Emergency Management Agency (FEMA) for its approval. The application for flood zone map amendments shall be deemed incomplete if not accompanied by a letter of approval from FEMA.
- (D) All amendments to the official flood boundary map and floodway map shall be filed in accordance with NCGS 143-215.56(c).

ARTICLE IX
ZONING

9-1 ZONING DISTRICTS

In order to achieve the purposes of this Ordinance as set forth, all property within the jurisdiction of Nash County is divided into districts with the designations and purposes listed in Sections 9-1.1 through 9-1.7. The minimum lot size specified for each zoning district in the descriptions below is the general requirement. Where public water and/or public sewer service is not available, a larger minimum lot size may be required by the Nash County Health Department, particularly if the lot is located within a designated public water supply watershed. See Article XII for specific requirements for properties located within a watershed protection overlay district or a flood hazard district overlay.

9-1.1 Agricultural District

(A) A-1 Agricultural District

The A-1 Agricultural District is primarily intended to accommodate uses of an agricultural nature, including farm residences. It also accommodates scattered non-farm residences, including Class A and B, manufactured homes, on large tracts of land and manufactured home parks. The district is established for the following purposes:

- (1) to preserve and encourage the continued use of land for agricultural, forest and open space purposes;
- (2) to discourage scattered commercial land uses;
- (3) to encourage only those industries which are agricultural-related;
- (4) to concentrate urban development in and around growth areas, thereby avoiding premature conversion of farmland to urban uses;
- (5) to discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

The minimum lot size in the A-1 District is 40,000 square feet. (Amended September 23, 2019)

9-1.2 Residential Districts

(A) RA-40 Single-Family Residential District

The RA-40 Single-Family Residential District is primarily intended to accommodate low density single-family detached dwellings on large lots in areas without access to public water and sewer services and in areas where soil characteristics necessitate low density development. The RA-40 District is

distinguished from the R-40 District in that Class A, B manufactured homes are excluded. The RA-40 District requires a minimum lot size of 40,000 square feet.

(B) R-40 Single-Family Residential District

The R-40 Single-Family Residential District is primarily intended to accommodate low density single-family detached dwellings and Class A manufactured homes on large lots in areas without access to public water and sewer services and in areas where soil characteristics necessitate low density development. The R-40 District requires a minimum lot size of 40,000 square feet.

(C) RA-30 Single-Family Residential District

The RA-30 Single-Family Residential District is primarily intended to accommodate low density single-family detached dwellings on large lots in areas without access to public water and sewer services and in areas where soil characteristics necessitate low density development. The RA-30 District is distinguished from the R-30 District in that Class A, B manufactured homes are excluded. The RA-30 District requires a minimum lot size of 30,000 square feet.

(D) R-30 Single- and Two-Family Residential District

The R-30 Single- and Two-Family Residential District is primarily intended to accommodate low to medium density single-family detached, Class A manufactured homes, and two-family dwellings on large lots in areas without access to public water and sewer services and in areas where soil characteristics necessitate low to medium density development. The R-30 District requires a minimum lot size of 30,000 square feet.

(E1) RA-20 Medium-Density Residential District

The RA-20 Medium Density Residential District is primarily intended to accommodate single-family detached dwellings in areas where public water and/or public sewer services are available or where soil characteristics allow for medium-density development. The RA-20 District is distinguished from the R-20 District in that Class A manufactured homes, manufactured home parks, two-family dwellings, boarding and rooming houses, and congregate care facilities are excluded. The minimum lot size in the RA-20 District is 20,000 square feet. (Amended June 3, 2019)

(E2) R-20 Medium-Density Residential District

The R-20 Medium Density Residential District is primarily intended to accommodate single-family detached dwellings, Class A manufactured homes, and two-family dwellings in areas where public water and/or public sewer services are available or where soil characteristics allow for medium-density development. Manufactured home parks are also allowed in the R-20 District by special use permit. The minimum lot size in the R-20 District is 20,000 square feet.

(F) RA-15 Medium Density Residential District

The RA-15 Medium Density Residential District is primarily intended to accommodate single-family detached and two-family dwellings in areas where public water and/or public sewer services are available or where soil characteristics allow for medium-density development. The RA-15 District requires a minimum lot size of 15,000 square feet.

(G) R-15 Medium Density Residential District

The R-15 Medium Density Residential District is primarily intended to accommodate single-family detached dwellings, Class A manufactured homes, and two-family dwellings in areas where public water and/or public sewer services are available or where soil characteristics allow for medium density development. The minimum lot size in the R-15 District is 15,000 square feet.

(H) R-10 High Density Residential District

The R-10 High Density Residential District is primarily intended to accommodate single-family detached dwellings, Class A manufactured homes, two-family dwellings, manufactured home parks, and multi-family dwellings at relatively high densities in areas where public water, sewer, and other urban services are available. A minimum lot size of 10,000 square feet is required in the R-10 District.

(I) R-6 High Density Residential District

The R-6 High Density Residential District is primarily intended to accommodate single-family detached dwellings, Class A manufactured homes, two-family dwellings, manufactured home parks, and multi-family dwellings at relatively high densities in areas where public water, sewer, and other urban services are available. A minimum lot size of 6,000 square feet is required in the R-6 District.

9-1.3 Office and Institutional District

(A) OI Office and Institutional District

The OI Office and Institutional District is primarily intended to accommodate office; public and institutional; business, professional, and personal services; limited support retail; and high density residential uses.

9-1.4 Commercial Districts

(A) RC Rural Commercial District

The RC Rural Commercial District is primarily intended to accommodate limited retail, office, service, and medium density residential uses. The RC District is typically located in the intersection area of rural roads and is intended to provide moderate intensity shopping and services.

(B) GC General Commercial District

The GC General Commercial District is primarily intended to accommodate a wide range of retail, service, office, and high density residential uses. The GC District is typically located with access to major thoroughfares and urban services. The GC District is intended to accommodate intensive commercial uses such as shopping centers, strip centers, and business parks as well as free-standing, highway-oriented business establishments.

9-1.5 Industrial Districts

(A) LI Light Industrial District

The LI Light Industrial District is primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining properties.

(B) GI General Industrial District

The GI General Industrial District is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing uses. The GI District is established for the purpose of providing appropriate locations and development regulations for uses which may require special measures to ensure compatibility with adjoining properties.

(C) PI Planned Industrial District

The PI Planned Industrial District is primarily intended to accommodate selected light manufacturing, wholesale, office, service, and support retail uses in a planned setting compatible with adjoining properties. The PI District is intended to provide suitable locations and development regulations for such uses as industrial parks, corporate parks, and employment centers.

9-1.6 Conditional Zoning Districts

In addition to the general use zoning districts established in Sections 9-1.1 through 9-1.5, a corresponding Conditional Zoning District, bearing the designation CZD, may be established in accordance with the provisions of Section 8-7. Accordingly, the following Conditional Zoning Districts may be designated upon approval by the Board of Commissioners of a petition by the property owners to establish a Conditional Zoning District:

A-1(CZD), RA-40(CZD), R-40(CZD), RA-30(CZD), R-30(CZD), RA-20(CZD), R-20(CZD), RA-15(CZD), R-15(CZD), R-10(CZD), R-6(CZD), OI(CZD), RC(CZD), GC(CZD), LI(CZD), GI(CZD), and PI(CZD).

All regulations which apply to a general use zoning district also apply to the corresponding conditional zoning district. All other regulations which may be offered by the property owner and approved by the Board of Commissioners as part of the rezoning process shall also apply.

9-1.7 Overlay Districts

Overlay Districts establish certain area regulations which are in addition to those of the underlying general use or conditional zoning districts. Property within a designated overlay district may be used in a manner permitted in the underlying general use or conditional zoning district only if and to the extent such use is also permitted in the applicable overlay district.

(A) FHO Flood Hazard Overlay District

The FHO Flood Hazard Overlay District is intended to set forth regulations which will protect people and property from the hazards of flooding. These regulations are specified in Section 12-2.

(B) AO Airport Overlay District (RESERVED)

The Airport Overlay District is intended to set forth regulations which restrain influences adverse to the property and safe conduct of aircraft operations in the vicinity of the Rocky Mount Wilson Airport, prevent conflict with land development that may result in loss of life or property, and encourage development which is compatible with airport use characteristics. The Airport Overlay District is comprised of several subareas, each having specific dimensional and height requirements, and development limitations. These regulations are specified in Section 12-6.

(C) WP Watershed Protection Overlay Districts

The WP Watershed Protection Overlay Districts are intended to establish regulations for the protection of public drinking water supplies. The watershed protection overlay districts consist of three separate districts: the WPIII-BW Overlay District, the WPIV-CA Overlay District, and the WPIV-PA Overlay District.

- (1) The WPIII-BW Watershed Protection Overlay District consists of the remainder of the Toisnot Swamp public water supply watershed designated by the NC Environmental Management Commission which is located within the Nash County planning jurisdiction and which is adjoining and upstream of the WS-III critical area.
- (2) The WPIV-CA Watershed Protection Overlay District consists of that portion of the Tar River Reservoir public water supply watershed designated by the NC Environmental Management Commission which is located within the Nash County planning jurisdiction and which is located one-half mile from the normal pool elevation of the Tar River Reservoir or to the ridge line of the watershed, whichever comes first.
- (3) The WPIV-PA Watershed Protection Overlay District consists of those portions of the Tar River Reservoir, the Tar River, and the Fishing Creek public water supply watersheds designated by the NC Environmental Management Commission which are located within the Nash County planning jurisdiction and which are located 10 miles upstream from and

draining to the public water supply intake on each respective water source or to the ridge line of the watersheds, whichever comes first.

The boundaries of the areas included in the watershed overlay districts are delineated on the official Zoning Map as defined in Section 9-2. Supplementary watershed overlay district standards are delineated in Section 12-1.

9-2 ESTABLISHMENT OF OFFICIAL ZONING MAP

9-2.1 Official Zoning Map

The Nash County Planning and Zoning Jurisdiction is hereby divided into zones, or districts, as established in Section 9-1. The official zoning map is the set of planimetric property tax map overlays as produced and maintained by the Geographic Information System mapping division of the Nash County Tax Department.

9-2.2 Map Certification

The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the Clerk, and shall bear the seal of Nash County, together with the effective date of this Ordinance.

9-2.3 Map Changes

If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map. Amendments to the Official Zoning Map shall be made utilizing the same procedures that apply to text amendments, as set forth in Article VIII.

9-2.4 Unauthorized Changes

No changes in zoning district boundaries shall be made on the Official Zoning Map, except in conformance with the procedures set forth in this Ordinance. Any unauthorized change shall be considered a violation of this Ordinance.

9-2.5 Map Location

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Nash County Planning Department, shall be the final authority as to the current zoning of property within the County's planning jurisdiction.

9-2.6 Map Damage and Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Commissioners may by resolution adopt a replacement Official Zoning Map which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

9-2.7 Replacement of Official Zoning Map

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The replacement Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, be attested by the Clerk, and bear the seal of Nash County.

9-3 PERMITTED USES

9-3.1 Permitted Use Table

(A) Table of Permitted Uses: Within each zoning district indicated on the Official Zoning Map and subject to all requirements and conditions specified in this Ordinance, land, buildings, and structures shall only be used and buildings and structures shall only be erected which are intended or designed to be used for uses listed in the Table of Permitted Uses, Table 9-3-1. In the appropriate columns of Table 9-3-1 uses permitted by right in the various districts are indicated by a 'P', uses requiring a Special Use Permit are indicated by an 'S', uses permitted by right subject to meeting additional development standards as set forth in Article XI (Development Standards) are indicated with a 'D', and uses requiring a Conditional Zoning District are indicated by a 'C'.

(B) Formulation of Permitted Use Table

- (1) The Standard Industrial Classification Manual - 1987 was utilized in the preparation of this table and shall be referred to as a guide for purposes of interpretation by the Zoning Administrator. SIC codes are used to refer to SIC Classifications. Entries with 0000 in the Reference SIC column do not correspond to any classification in the SIC Manual.
- (2) When a use is not listed in the Permitted Use Table, the Zoning Administrator shall classify it with that use in the table most similar to it. The SIC Manual shall serve as a guide in classifying any unlisted use. If the Zoning Administrator should determine that a use is not listed and is not similar to a use in the Permitted Use Table, then said use is prohibited.
- (3) Rental and leasing of any commodity shall be permitted under the same classification and in the same districts as are sales of that commodity, unless rental or leasing of that commodity is listed separately in the Permitted Use Table.
- (4) If an industrial plant or facility involves two (or more) manufacturing activities with different SIC codes on the same zone lot, the industrial plant shall be permitted only in those zoning districts where the more restricted activity is permitted. (For example, an industrial plant preparing canned peanuts and also manufacturing the cans is allowed in those zoning districts permitting can manufacturing.)

9-3.2 Permissible Uses Not Requiring Permits

Notwithstanding any other provisions of this Ordinance, no zoning or special use permits necessary for the following uses:

- (A) Roads.
- (B) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right of way. Communication towers located on government facilities and structures.

9-3.3 Change in Use

- (A) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:
 - (1) The change involves a change from one principal use category to another.
 - (2) If the original use is a combination use, the relative proportion of space devoted to the individual principal uses that comprise the combination use changes to such an extent that the parking requirements for the overall use are altered.
 - (3) If the original use is a combination use, the mixture of types of individual principal uses that comprise the combination use changes.
 - (4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
 - (5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center-combination use) has not changed.
- (B) A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied,

unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

- (C) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

9-3.4 Combination Uses

- (A) When a combination use comprises two or more principal uses that require different types of permits (zoning or special use), then the permit authorizing the combination use shall be:
 - (1) A special use permit if any of the principal uses combined requires a special use permit.
 - (2) A zoning permit in all other cases.
- (B) When a combination use consists of a single-family detached residential subdivision that is not a planned unit development and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

9-3.5 Prohibited Uses

Within certain overlay districts some uses are specifically prohibited. The following uses are prohibited in the overlay districts listed.

- (A) WPIV-CA Watershed Protection Overlay District: The following uses are prohibited:
 - (1) New landfills;
 - (2) New sites for land application of residuals; and
 - (3) New sites for land application of petroleum-contaminated soils.
- (B) WPIII-BW Watershed Protection Overlay District: The following uses are prohibited:
 - (1) New discharging landfills.
- (C) WPIV-PA Watershed Protection Overlay District: The following uses are prohibited:
 - (1) No uses are prohibited.
- (D) FHO Flood Hazard Overlay District: The following uses are prohibited in designated floodways:
 - (1) Buildings, including manufactured homes; and
 - (2) Any use that would cause any increase in base flood levels.

(E) AO Airport Overlay District: (Reserved)

9-4 DENSITY AND DIMENSIONAL REQUIREMENTS

Within the zoning districts as shown on the Official Zoning Map all of the following requirements shall be complied with:

9-4.1 Agricultural and Residential Districts

(A) The density and dimensional requirements for the Agricultural and Residential Districts are found in Table 9-4-1.

**Table 9-4-1 Table of Density and Dimensional Requirements
Agricultural and Residential Districts**

	Districts							
	A-1	R-40 RA-40	RA-30	R-30	R-20 RA-20	R-15 RA-15	R-10	R-6
Minimum Lot Size (Sq.Ft.) ¹								
Single-Family or Other Permitted Use	40,000	40,000	30,000	30,000	20,000	15,000	10,000	6,000
Two Family	--	--	--	--	--	--	15,000	7,000
Each Dwelling Unit After Two	--	--	--	--	--	--	5,000	2,500
Minimum Lot Width (Ft.)								
Single-Family	100	100	100	100	100	100	75	60
Two-Family	--	--	--	--	--	--	75	60
Multi-Family	--	--	--	--	--	--	100	60
Building Setback (Ft.)								
Road Right-of-Way	50	50	40	40	35	35	30	25
Side Property Line ²	15	15	15	15	12	12	10	10
Rear Property Line	30	30	30	30	25	25	20	20

Notes: Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback (see Section 9-6.3).

1. Where public water and or public sewer service is not available, a greater lot area may be required by the Nash County Health Department. For property located within a watershed protection overlay district, see Section 12-1 for additional minimum lot area requirements.

2. A corner lot shall be required to provide a street side setback of one-half the distance of the road right of way setback. Through lots shall have two road setbacks but no rear setback.

¹ Where public water and/or public sewer service is not available, a greater lot area may be required by the Nash County Health Department. For property located within a watershed protection overlay district, see Section 12-1 for additional minimum lot area requirements.

² A corner lot shall be required to provide a street side setback of one-half the distance of the road right of way setback. Through lots shall have two road setbacks but no rear setback.

((B) Cluster Development: Repealed on 9/6/2023, A-230801)

(C) Zero Side Setback:

- (1) Zero Side Setback Option: Zero side setback development may be used in any district, which permits single-family uses if the development contains ten or more contiguous lots. Where public sanitary sewer is not available, required septic system and repair area must be located within the same lot as the principal dwelling.
- (2) Development Standards:
 - (a) Setbacks of zero feet are permitted only where the lots on both of the affected lot lines are part of a zero side setback development.
 - (b) A wall and roof maintenance easement (five feet along one-story walls, ten feet along two-story walls) shall be provided on the opposite side of the zero setback lot line.
 - (c) Whenever one side setback is zero, the minimum setback on the opposite side of the same lot shall be twice the minimum side setback required by this Ordinance for the zoning district in which the development is located.

9-4.2 Nonresidential Districts

- (A) Dimensional Requirements for Non-Residential Districts: Dimensional requirements for non-residential districts are shown in Table 9-4-3.
- (B) No lot created after the effective date of this Ordinance that is less than the lot width required in Table 9-4-3 shall be entitled to a variance from any building setback requirement.
- (C) Whenever a greater building setback is required by the NC Building Code, such greater setback shall be applicable.
- (D) (Repealed September 23, 2019; A-190902)

(B) Density and Dimensional Requirements, Nonresidential Districts Zero Side/Rear Setback

- (1) Zero Side or Rear Setback Option: Zero side/rear setback development may be used in any nonresidential district which permits development without a rear setback, if the development contains two or more contiguous lots and is served by public water and sanitary sewer.
- (2) Development Standards
 - (a) Setbacks of zero feet are permitted only where the lots on both sides of the affected lot lines are part of a zero side/rear setback development.

(b) Lot lines that constitute the exterior boundary of the zero side/rear development are not eligible for zero lot line development. Whenever a side lot line is part of the development's exterior boundary, and the opposite side setback on the same lot is zero, the setback on the external boundary side shall be twice the minimum setback required by this Ordinance for the zoning district in which the development is located. For corner lots, the minimum setback on the roadside shall be twice the interior side setback for the zoning district in which the development is located.

(c) A wall and roof maintenance easement (five feet along one-story walls, ten feet along two-story walls) shall be provided on the both sides of a zero setback lot line.

**Table 9-4-3
Table of Density and Dimensional Requirements
Nonresidential Districts**

	District					
	OI	RC	GC	LI	GI	PI
Minimum Development Size (AC) ¹	--	--	--	--	--	--
Minimum Lot Width (FT)	60	60	75	100	100	150
Building Setback (FT) ²						
Road Right-of-Way	30	25	20	50	75	100
Side Property Line ³	10	--	--	10	10	--
Rear Property Line	20	--	--	20	20	--
Maximum Built-Upon Area ¹	--	--	--	--		
Maximum Building Height (FT) ⁵	5	5	5	5	5	5

¹For property located within a watershed protection overlay district, see Section 12-1 for minimum lot area and built-upon area requirements.

²Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district and the property line setback applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to comply with the property line setback applicable to the adjoining residential lot.

³A corner lot shall be required to provide a street side setback of one half (½) the distance of the road right of way setback. Through lots shall have two road setbacks but no rear setback.

⁴No maximum building height. However, all building setbacks shall increase one foot for every foot in height between 50 feet and 80 feet. No additional setback is required for buildings greater than 80 feet in height.

(Amended 5/7/2018, A-180401)

Notes:

1. Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback (see Section 9-6.3).
2. Whenever a greater building setback is required by the NC Building Code, such greater setback shall be applicable.

9-5 ACCESSORY USES, BUILDINGS AND STRUCTURES

The following requirements are for customary accessory buildings and structures. Other accessory buildings and structures containing specific accessory uses listed in Table 9-3-1 (Permitted Use Table) may have additional development requirements found in Section 11-4 (Development Standards for Individual Uses).

9-5.1 Setback Requirements

- (A) Road: No encroachment in the road setback is permitted.
- (B) Side and Rear: If the gross floor area (GFA) of the accessory structure or building is less than six hundred square feet, the structure or building may be located five feet from a side or rear line. If the GFA is six hundred square feet or greater, it must meet the setback requirements of the principal building(s). In either case, accessory structures can be no closer than five feet from any principal or other accessory structure. Structures which house livestock, shall maintain a setback of one hundred (100) feet from the property line. A developable upstairs within the roof line of a single story A-frame accessory structure shall not be included when calculating the GFA to determine setback requirements. *(Amended 7/12/10)*

9-5.2 Location

- (A) All Districts: Accessory structures and buildings may be in front of the principal structure but in no case may they encroach in the road building setback.
- (B) All Districts: No accessory structure or building except utility substations shall be erected in any easements.

9-5.3 Exceptions

- (A) Structures that are built to contain livestock that are not considered a bona fide farm use are not required to be located on the same parcel as a principal building or structure; however, the structure must be for the use of the owner of the property. Livestock shall include but not be limited to horses, mules, cattle, sheep, goats, llamas, etc. *(Amended 1/10/11)*
- (B) Structures including piers, boat docks, boat houses, boat slips and bulkheads shall be permitted on lots without an existing principal building or structure, provided that the structure must be for the use of the owner of the property. No connection to on-site water supply or sewer/septic facilities for these structures shall be permitted without a principal building or structure located on the same lot. *(Amended 11/3/2014, A-140901) (Amended 1/10/11)*
- (C) Structures used for residential storage shall be permitted on lots without an existing principal building or structure, provided that a structure must be for the use of the owner of the property. No Connection to on-site water supply or sewer/septic facilities for these structures shall be permitted without a principal building or structure located on the same lot. *(Amended 11/3/2014, A-140901)*

9-6 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

9-6.1 (Reserved)

9-6.2 Prevailing Road Setback

Where fifty percent or more of the lots in a recorded subdivision on the same side of the road as the lot in question are developed with less than the required road setbacks, the average setback of the two principal buildings nearest that lot shall be observed as the required minimum setback.

9-6.3 Encroachments into Required Setbacks

(A) Encroachments Permitted in Required Setback: The following are permitted in required setbacks provided there is no interference with any sight area:

- (1) Landscaping features, including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
- (2) At grade patios, play equipment or outdoor furniture, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, outdoor fire places, public utility wires and poles, pumps or wells, and fences or retaining walls;
- (3) Handicapped ramps.

(B) Structures Permitted in Required Setbacks: The following structures may encroach into any required setback:

- (1) Cornices, steps, overhanging eaves and gutters, window sills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half feet into any required setback, but in no case shall be closer than three feet to any property line; and
- (2) At grade, concrete or wood deck aprons that are part of a swimming pool with no structures such as a bath house may encroach into the rear setback 50 % of the setback requirement. Porches and decks may encroach into the required road and rear setbacks as follows:

Porch or Deck Type	Yard	Maximum Encroachment	Maximum Area
Covered or Uncovered	Road	3 feet	35 Sq.Ft.
Uncovered only	Rear	50% of setback	--

- (C) Canopy Projections: Gas station and convenience store pump island canopies may be located in the road setback provided that no equipment or part of a canopy is located closer than fifteen feet to a road right-of-way line if the pump island is parallel to the road right-of-way or 50 feet if the pump island is perpendicular to the road right-of-way.

9-6.4 Easement Encroachments

- (A) Utility Easements: In addition to the lines, boxes, structures, and substation buildings for which utility easements are intended, fences without foundations may be located within utility easements.
- (B) Drainage Maintenance and Utility Easements: Water-related improvements, such as boat docks, may be placed or constructed within drainage maintenance and utility easements with the approval of the utility provider having jurisdiction over the easement.

9-6.5 Setbacks from Thoroughfares

Where proposed road alignments have been established, in accordance with an adopted Thoroughfare Plan, building setbacks shall be measured from the future right-of-way line of the proposed road.

9-6.6 Setbacks from Private Roads

Building setbacks from approved private roads shall be the same distance as specified in Table 9-4-1 or Table 9-4-3 but shall be measured from the private road right-of-way, private road easement, or the boundary line of the common area reserved for the private road.

9-6.7 Setbacks on Lots Served by an Access Easement

- (A) Lots Served by an Access Easement: The easement portion of this type of lot shall not be used to calculate building setback. The lot line at the end of the easement portion lying generally parallel to the road to which the easement connects shall be considered to be the front lot line for road setback purposes.

9-7 GENERAL LOT REQUIREMENTS

9-7.1 Principal Buildings Per Lot

Every building hereafter erected or moved shall be located on a buildable lot; and in no case shall there be more than one principal building and its accessory buildings on a buildable lot except as provided below.

- (A) Nonresidential Group Development: Two or more principal nonresidential buildings are permitted on a lot pursuant to a site plan approved by the Planning Board, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles.

- (B) Residential Group Development: Two or more principal buildings are permitted in a multi-family development pursuant to a site plan approved by the Planning Board, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles.
- (C) Manufactured Home Park: More than 3 principal buildings are permitted in a manufactured home park pursuant to a site plan approved in accordance with the provisions of Section 11-4.46.
- (D) Pre-Existing Septic Tank Lots: Lots with pre existing septic systems approved under zoning regulations in existence prior to April 1, 1999 where the septic system and or well do not require major repair as defined by the Nash County Health Department, and the lot otherwise meets all other dimensional requirements of the zoning district except for the lot width.
- (E) Single Family Residential Structures: Two or more principal single family residential structures are permitted on a single parcel or tract subject to a site plan approved by the Planning Director. The site plan shall show that the parcel could potentially be subdivided so that each single family residential structure could be located on its own lot that is equal to or exceeds the dimensional standards of the underlying zoning district (i.e. minimum lot area, minimum lot width, and building setbacks). (*Amended 7/12/10*)

9-7.2 Road Access Requirements

- (A) Access to Public Road Required: Every lot shall abut and have direct access to a publicly maintained road, except as provided for in this Section. No building or structure shall be constructed, erected, or placed on a lot that does not abut and have direct access to a publicly maintained road, except as provided in this Section.
- (B) Dead-End Roads: For purposes of this Section the terminus of a dead-end road does not provide the required access to a publicly maintained road unless that terminus is a circular turnaround or other turnaround approved and constructed in conformance with Article X (Subdivisions: Procedures and Standards).
- (C) Single-Family Detached Cluster Development: Private roads may be used to meet access requirements for lots in single-family detached cluster developments and for single-family lots in planned unit developments, provided the development as a whole abuts and has direct access to a publicly maintained road.
- (D) Townhouse Developments: Individual parcels shall have right of access through common areas containing private roads and/or private drives at least twenty-four feet in width leading to a publicly maintained road. Individual parcels may have direct access to a publicly maintained road with Planning Board approval.
- (E) Manufacturing Home Park: Manufactured home park lots or spaces developed in accordance with Section 11-4.46.

- (F) Nonresidential Unified Development: Individual parcels, whether leased or sold, in a unified development shall have shared rights of access along private roads and/or along private drives at least twenty-four feet in width leading to a publicly maintained road. Maintenance of all private roads and private drives shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one landowner, an Owners' Association, or all owners acting collectively pursuant to a binding agreement.
- (G) Exceptions: Special-purpose lots may provide access via easement in accordance with Section 9-9 (Special-Purpose Lots) and lots meeting the access requirements of Section 10-7.2(G).

9-7.3 Unified Development

- (A) Parking and Landscaping: A nonresidential unified development shall be treated as a single lot for purposes of providing required off-road parking and required planting yards, even if out parcels for sale are included within the development.
 - (1) If the entire development meets the total off-road parking requirement, it is not required that each parcel provide all the required parking for the use thereon.
 - (2) If required buffer yards are provided along the development perimeter, including road frontages, and requirements for parking lot planting are met, buffer yards are not required along property lines and lease lines between two parcels within the unified development.
- (B) Plat and Notice Requirements: If the owner of a development elects to organize it in an unified development, a plat shall be recorded displaying a prominent note identifying it as such and explaining that the property must be developed with common driveways and off-road parking and be subject to a common signage plan and a common landscaping plan. The note shall further state that should the property cease function as a unified development, the property will then be in violation of this Ordinance and shall be retrofitted with conventional parking and landscaping, even if doing so requires the removal of previously installed improvements.

9-7.4 Water and Sewage Disposal Requirements

Every lot shall be served by a water supply system and a sewage disposal system that

- (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and
- (ii) complies with all applicable health regulations.

9-8 LOT SIZE REDUCTION PROHIBITIONS

9-8.1 Single Lot

No lot shall be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built-upon area, width, setback, parking, buffer yard, or signage requirement of this Ordinance is created, nor shall any existing nonconformity or violation be increased.

9-8.2 Buildable Lot

A buildable lot shall not be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built upon area, width, setback, parking, buffer yard, or signage requirement of this ordinance is created, nor shall any existing nonconformity or violation be increased.

9-8.3 Exemption

These prohibitions shall not apply to county, municipal or state acquisition of land.

9-9 SPECIAL PURPOSE LOTS

Requirements of this Article with respect to road frontage, minimum lot area, and minimum lot dimensions shall not apply to lots for family or church cemeteries, public utility stations, wireless communication facilities, stormwater conservation easement areas, stormwater BMP lots owned by a property owners association and similar utility uses. There shall be no habitable use of any structure located on a special purpose lot. Such lots shall comply with the requirements below. Also included as a special purpose lot is a lot created in a subdivision under ownership of the HOA intended for use of the owners of lots within the subdivision and invited guests. For this type of Special Purpose Lot, the minimum lot size shall be the minimum size for the zoning district in which the lot is located and permitted uses shall be uses associated with the residential subdivision such as swimming pools, picnic shelters, recreation areas, boat docks, etc.

9-9.1 Minimum Size

The special purpose lot shall be permitted only after the Technical Review Committee has determined that the proposed lot has sufficient dimensions to accommodate the intended use and, where required by this Ordinance, buffer yards.

9-9.2 Access Easement

If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of ten feet shall be platted.

9-9.3 Platting

The subdivision to create the lot shall be approved in accordance with Article X (Subdivisions: Procedures and Standards). The Final Plat shall label the lot as a 'Special Purpose Lot for use as _____.'

9-10 PLANNED UNIT DEVELOPMENTS (Reserved)

ARTICLE X

SUBDIVISIONS: PROCEDURES AND STANDARDS

10-1 REGULATION OF SUBDIVISIONS IN GENERAL

10-1.1 Exclusion Determination

If a proposed division of land meets one or more of the exclusions under the definition of 'Subdivision' in Article II (Definitions), the owner may submit to the Planning Department maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the Zoning Administrator. An owner of land who wishes to record a plat of such a division of land shall obtain a Certificate of Exception (see Appendix 2) from the Director of Planning.

10-1.2 Approval Required

(A) Date of Compliance

After the effective date of this Ordinance and in accordance with NCGS 153A-332, no plat for the subdivision of land within Nash County shall be filed, accepted for recording, or recorded, nor shall the Clerk of the Superior Court order the recording of a plat until it has been submitted to and approved by the County.

(B) No Subdivision Without Approval

No real property, including property declared under the NC Condominium Act NCGS 47C-1 et.seq., lying within the Nash County Planning Jurisdiction as now or hereafter fixed shall be subdivided except in conformance with all applicable provisions of this Article. Violation of this Section shall be a misdemeanor.

10-1.3 Coordination With Other Procedures

To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with other applications for approvals required for the particular project.

10-1.4 Sketch Plans and Preliminary Plats Approved Prior to the Effective Date of this Ordinance

Sketch design plans and preliminary plats approved by the Planning Board or Board of Commissioners prior to the effective date of this Ordinance shall be valid for 12 months from the date of approval of the plan or plat unless a longer time period has been authorized through vested rights provisions.

10-2 MINOR SUBDIVISION PROCEDURES

10-2.1 Applicability

- (A) The Planning Director or the Planning Director's designee shall approve or disapprove minor subdivision plats in accordance with the provisions of this Section. The Planning Director may refer minor subdivisions of 2 or less lots to the Technical Review Committee for review and recommendation. A minor subdivision, as defined in Article II, is a subdivision involving 2 or less lots fronting on an existing, approved public road(s), not requiring any new public or private road(s) nor easements for access to interior property, not requiring an extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance.
- (B) Not more than a total of 2 lots may be created out of one tract using the minor subdivision plat approval process during a two-year period.
- (C) A division of a tract or parcel of land meeting the criteria established in N.C.G.S. 160D-802(c) for expedited review shall require only the submittal of a plat for recordation.

10-2.2 Minor Subdivision Review and Approval

- (A) The applicant for minor subdivision plat approval is encouraged to confer with the Planning Director prior to submitting a minor subdivision plat for a determination of whether the approval process authorized by this Section can be and should be utilized. The Planning Director may require the applicant to submit information necessary to determine whether or not the proposed subdivision is eligible for processing under the minor subdivision approval process.
- (B) The applicant for minor subdivision plat approval shall submit to the Planning Director a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Nash County Register of Deeds Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equals not more than one hundred feet. The applicant shall also submit six prints of the plat as well as any required application form and required fee.
- (C) The minor subdivision plat shall contain the following information:
 - (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Nash County Registry;
 - (2) The name of the subdivision owner or owners;
 - (3) The township, county and state where the subdivision is located;
 - (4) The name of the surveyor and his registration number and the date of survey;

- (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
 - (6) All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix 1;
 - (7) All of the applicable certificates required in Appendix 2; and
 - (8) Total acreage including gross and net usable acreage.
- (D) The Planning Director shall take expeditious action on an application for minor subdivision plat approval. A decision shall be rendered by the Planning Director within ten days after receipt of the proposed minor subdivision plat. If no decision is rendered by the Planning Director within the required 10-working day period, the applicant may appeal to the Planning Board for review of the application under the major subdivision approval process. Either the Planning Director or the applicant may at any time refer the application to the major subdivision approval process.
- (E) Subject to subsection (D), the Planning Director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Article II or the application or the proposed subdivision fails to comply with any other applicable requirement of this Ordinance.
- (F) If the subdivision is disapproved, the Planning Director shall promptly furnish the applicant with a written statement of the reasons for disapproval.
- (G) Approval of any plat is contingent upon the plat being recorded within sixty days after the date the Certificate of Approval is signed by the Planning Director or his designee. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

10-3 MAJOR SUBDIVISION PROCEDURES

10-3.1 Applicability

- (A) A major subdivision, as defined in Article II is a subdivision involving more than two lots, or requiring and access easement(s), or requiring a new public or private road(s), or extension of any easement(s), public or private road(s) for access to interior property, or requiring extension of public sewer or water line, or requiring a waiver or variance from any requirement of this Ordinance. When a subdivision is to be developed in stages, a preliminary plat shall be submitted for each stage. (See Section 10-3.5 for exceptions to these requirements.)
- (B) The procedures for the review of a major subdivision generally involve (i) sketch design plan review and approval by the Technical Review Committee and Planning Board, (ii) a preliminary plat review and approval by the Technical Review Committee, and (iii) a final plat review and approval by the Planning Director.

10-3.2 Submission of the Sketch Plan for a Major Subdivision to the Planning Board

(A) Submission Requirements

The developer may submit a sketch design plan prior to submitting a preliminary plat. However, if a sketch is not submitted and approved by the Planning Board, a preliminary plat is required for the entire subdivision to be reviewed and approved by the Planning Board.

(B) Procedural Requirements

The procedural requirements for receiving sketch plan approval are as follows: The subdivider shall submit to the Director of Planning or designated agent no less than 25 days prior to the regularly scheduled Planning Board meeting at which time the plan will be considered, eight (8) copies of the proposed sketch prepared in accordance with the requirements of this Ordinance. An application for subdivision review shall accompany the sketch.

(C) Sketch Plan Contents

The proposed sketch plan shall be prepared by a registered land surveyor or engineer licensed to render said service in the State of North Carolina and shall depict the following information:

- (1) The name and location of the proposed subdivision;
- (2) The date that the sketch plan was prepared or revised;
- (3) North arrow;
- (4) Vicinity map;
- (5) Scale (1"=100') if less than 5 acre lots);
- (6) Scale (1"=200') if more than 5 acre lots);
- (7) Total number of lots;
- (8) The names of adjacent property owners;
- (9) Adjoining property lines within 100 feet of the property;
- (10) Corporate limits, county lines, ETJ boundaries, etc.;
- (11) Existing structures, wells, and septic systems;
- (12) Zoning information, including setbacks;
- (13) Total acreage to be subdivided and acreage left in open spaces or for other uses;
- (14) Property boundaries and proposed lot lines;

- (15) Proposed road layout to meet NCDOT standards and proposed road construction standards;
- (16) Proposed road names;
- (17) Existing topography showing contour intervals of 10 feet;
- (18) Existing public roads and accesses within 400 feet of the property;
- (19) Existing railroads and bridges;
- (20) Utility easements;
- (21) Floodplain, public water supply watershed, and soil type information; and
- (22) Watercourses, ponds, streams, etc.
- (23) A completed BMP Removal Calculation Worksheet to indicate how the proposed subdivision will comply with the Tar Pamlico Overlay requirements.

(D) Technical Review Committee Review and Recommendation

Upon receipt of the requisite copies of the proposed sketch plan, the Planning Director shall schedule a meeting of the Technical Review Committee (TRC) to review the sketch plan. Following its review, the TRC shall, through the Planning Director, forward its findings and recommendations to the Planning Board and the applicant at least 5 days prior to the Planning Board meeting. If the TRC determines that the sketch plan is incomplete, the Planning Director shall notify the applicant of the deficiencies. Sketch plans shall not be forwarded to the Planning Board until all deficiencies have been corrected.

(E) Planning Board Review and Approval

The Planning Board shall review the sketch plan and the findings and recommendations of the TRC, and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the sketch plan.

- (1) If the Planning Board grants the conditional approval of the sketch plan, the conditions and reasons thereof shall be stated in writing.
- (2) If the Planning Board disapproves of the sketch plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plan does not comply.
- (3) If the Planning Board approves the sketch plan, the developer is authorized to proceed with the preparation of a preliminary plat.
- (4) If the Planning Board fails to render a recommendation on the sketch plan within 60 days from the date that the plan is initially reviewed by the

Planning Board, the developer may proceed with the preparation of a preliminary plat.

- (F) A sketch plan shall be valid for twelve (12), months from the date approved by the Planning Board.
- 1st Year Sketch Plan Extension: An approved sketch plan may remain valid for a second year if a preliminary plat for at least one phase with an interior road (depicting construction at least 400') is submitted prior to the expiration of the original twelve-month sketch period. The preliminary plat must then be approved, constructed and the final plat recorded within the subsequent year. (See Article IV-Section 4-15 for requirements for obtaining vesting beyond this extension).
- Preliminary plats submitted after the expiration of the sketch plan shall be approved by the Planning Board in accordance with Article X-Section 10-3.3 (b)

10-3.3 Preliminary Plat Review and Approval Procedures

(A) **Conformance with Sketch Plan**

The preliminary plat shall conform substantially to the approved sketch plan. If the submitted preliminary plat deviates in its overall design from the approved sketch, or if the applicant requests a waiver from any of the standards of this Ordinance, the Planning Director shall schedule the preliminary plat to be reviewed by the Technical Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in Section 10-3.3 B.

(B) **Submission Requirements**

The applicant for preliminary subdivision plat approval shall submit, at least 25 days prior to the regularly scheduled Planning Board meeting at which the plat will be considered, 8 prints of the proposed subdivision. If there is a new public or private road, or extension of an existing road, 4 complete sets of road construction plans, meeting the most current NCDOT road construction application requirements, shall be submitted with the preliminary plat. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one-inch equal not more than one hundred feet, except subdivisions with all lots greater than 5 acres or more may be at one-inch equals not more than two hundred feet. The applicant shall also submit any required application forms and any required fee. Preliminary plats that are submitted after the Planning Board has approved a sketch, and is consistent with the approved sketch, and does not require a waiver or variance from any requirement of this Ordinance, can be approved by staff once all comments have been received and approved by all members of the TRC. If any member of the TRC, or staff, determines that the preliminary plat should be resubmitted to the TRC, and/or Planning Board, the conditions and reasons shall be in writing with reference to specific section(s) of the Ordinance and sent to the owner, developer, and surveyor.

If a sketch plan has not been submitted and approved or if the preliminary plat is not substantially consistent with the approved sketch, then the plat shall be submitted 25 days prior to the regularly scheduled Planning Board Meeting. If the Planning Board grants the conditional approval of the preliminary plat, the conditions and reasons thereof shall be stated in writing. If the Planning Board disapproves of the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply. If the Planning Board fails to render a decision on the preliminary plat within 60 days from the date that the plat is initially reviewed by the Planning Board, the Planning Director shall forward the application to the Board of Commissioners for review and approval, approval with conditions, or disapproval.

(C) Preliminary Plat Contents

The preliminary plat shall contain the following information:

- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Nash County Registry;
- (2) The name of the subdivision owner or owners;
- (3) The township, county and state where the subdivision is located;
- (4) The name of the surveyor and the surveyor's registration number and the date of survey;
- (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
- (6) All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix 1.

(D) Technical Review Committee Review and Approval

Upon receipt of the requisite copies of the proposed preliminary plat, the Planning Director shall schedule a meeting of the Technical Review Committee (TRC) to review the plat. The TRC shall review the preliminary plat and any other reports or recommendations pertaining to the plat and shall approve, approve with conditions, or disapprove the preliminary plat.

- (1) If the TRC authorizes the conditional approval of the preliminary plat, the conditions and reasons thereof shall be stated in writing.
- (2) If the TRC disapproves the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of the Ordinance with which the plat does not comply. If the TRC fails to render a decision on the preliminary plat within 60 days from the date that the plat is initially reviewed by the TRC, the Planning Director shall forward the application to the Board of Commissioners for review and approval, approval with conditions, or disapproval.

- (3) If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements. Preliminary approval shall be valid for a period of 12 months from the date of approval of the plat by the TRC unless a longer time period is established under the vested rights provisions (Section 4-15). Preliminary plats whose approval has elapsed shall be resubmitted in accordance with Section 10-3.3 (B).

10-3.4 Final Plat Review and Approval Procedures

(A) Conformance with Preliminary Plat

The final plat shall conform substantially to the approved preliminary plat. If the submitted final plat deviates in its overall design from the approved preliminary plat, or if the applicant requests a waiver from any of the standards of this Ordinance, the Planning Director shall schedule the final plat to be reviewed by the Technical Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in Section 10-3.3 for preliminary plats.

(B) Submission Requirements

The applicant for final plat approval shall submit to the Planning Director a final plat made of material and of a size that will be acceptable to the Nash County Register of Deeds Office for recording purpose. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate march marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be a one-inch equals not more than one hundred feet, except when all lots are greater than 5 acres, the scale shall be a one-inch equals not more than 200 feet. The applicant shall also submit eight prints of the plat as well as any required application forms and any required fee.

(C) Final Plat Contents

The final plat shall contain the following information:

- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Nash County Registry;
- (2) The name of the subdivision owner or owners;
- (3) The township, county and state where the subdivision is located;
- (4) The name of the surveyor and the surveyor's registration number and the date of survey;
- (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;

- (6) All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix 1; and
- (7) All of the applicable certificates required in Appendix 2.

(D) Planning Director Approval

The Planning Director shall approve the final plat unless the Planning Director finds that the plat fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved for the preliminary plat. If the final plat is disapproved by the Planning Director, the applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply.

When the final plat is approved by the Planning Director, a signed written certification to this effect shall be entered on the face of the plat in accordance with the requirements of Appendix 2.

The Planning Director shall take expeditious action on a final plat. If the Planning Director fails to act within 30 days after the final plat is submitted, the applicant may request that the final plat be reviewed for final plat approval according to the same review and approval procedures set forth in Section 10-3.3 for preliminary plats. The Planning Director may at any time, however, refer an application for final plat approval to the TRC and the Planning Board.

(E) Required Improvements

No final plat shall be approved until all required improvements have been installed and approved or appropriate surety has been provided as set forth in Section 10-6.

(F) Appeals From the Decision of the Planning Director on Final Plats

If a final plat is disapproved by the Planning Director, the applicant may appeal the decision by requesting that the final plat be scheduled for review according to the same review and approval procedures set forth in Section 10-3.3 for preliminary plats.

10-3.5 Exception to Submission Requirements for a Major Subdivision

- (A) One phase of a major subdivision development is exempt from the major subdivision review process and may follow the submission and approval requirements for a minor subdivision (see Section 10-2.2) subject to the following:
 - (1) The phase includes no more than nine lots;
 - (2) The phase includes no road, water, sewer or drainage improvements, although a minimum 45-foot easement may be reserved for access to up to three interior lots provided plans and profiles are submitted and approved by TRC for the future private or public road; and

- (3) No previous phases have been developed after the effective date of this Ordinance.

The second such phase will require submission of a sketch plan, preliminary plat and final plat.

- (B) A major subdivision development that creates or extends a private access easement to serve residential lots and that is proposed in accordance with the requirements of Section 10-7.2 (G) (2) is exempt from the major subdivision review process and may follow the submission and approval requirements for a minor subdivision (see Section 10-2.2). (*Amended 5/5/12*)

10-4 RECORDATION OF FINAL PLATS

10-4.1 Plat Approval Contingent Upon Recordation

Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within 60 days after the approval date of the final plat. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

10-4.2 Dedication and Acceptance

(A) Rights-of-Way and Easements

The approval and recordation of a final plat does constitute an offer to dedicate but does not constitute dedication to and acceptance for maintenance responsibility by the County or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards.

(B) Open Space

Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the County. The offer may be accepted by the County through:

- (1) Express action by the Board of Commissioners;
- (2) Express action by an administrative officer designated by the Board of Commissioners; or
- (3) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the County at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for

dedication shall not be used for any purpose inconsistent with the proposed public use.

- (C) The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted.

10-4.3 Permits and Certificates of Occupancy

Unless otherwise provided in this Ordinance, upon recordation of the final plat, the applicant shall be eligible to apply for building and any other permits required by this Ordinance, if the roads are determined by the Planning Director to be in a passable condition. No certificates of occupancy shall be issued until all improvements are complete and approved by NCDOT.

10-5 OWNERS' ASSOCIATIONS

10-5.1 Establishment of Owners' Association

(A) Creation

An Owners' Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.

(B) Conveyance

Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Owners' Association in which all owners of lots in the development shall be members. All areas other than public road rights-of-way, other areas dedicated to the County, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owners' Association.

(C) Subdivision or Conveyance of Common Area

Common areas shall not be subsequently subdivided or conveyed by the Owners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved.

(D) Owners' Association Not Required

Developments involving only two units attached by a party wall shall not be required to have common areas or an Owners' Association. Developments with only two units attached and not having an Owners' Association shall have an agreement between owners concerning maintenance of party walls.

10-5.2 Submission of Owners' Association Declaration

Prior or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed Bylaws of the Owners' Association containing covenants and restraints governing the Association, plats, and common areas.

The submitted documents shall be reviewed by the county attorney and a recommendation made to the Board of Commissioners as to their sufficiency. The restrictions shall include provisions for the following:

(A) Existence Before Any Conveyance

The Owners' Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

(B) Membership

Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

(C) Owners' Association Declaration

- (1) Responsibilities of Owners' Association. The Owners' Association declaration shall state that the association is responsible for:
 - (a) the payment of premiums for liability insurance and local taxes;
 - (b) maintenance of recreational and/or other facilities located on the common areas; and
 - (c) payment of assessments for public and private improvements made to or for the benefit of the common areas.
- (2) Default of Owners' Association. Upon default by the Owners' Association in the payment to the County of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay to the County a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the County by the total number of lots in the development. If the sum is not paid by the owner within thirty days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The County may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.
- (3) Powers of the Association. The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.

- (4) Easements. Easements over the common areas for access, ingress, and egress from and to public roads and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
- (5) Maintenance and Restoration. Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.

(D) Nonresidential Condominiums

If the condominium is a nonresidential condominium, the declaration shall contain the following provision:

Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this Ordinance for the use intended to be located therein. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the Zoning Administrator at his request. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by this Ordinance.

10-6 SURETIES OR IMPROVEMENT GUARANTEES

In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the County may accept a performance guarantee in accordance with the requirements of G.S. 160D-804.1 in order to assure the successful completion of all required improvements by the developer.

10-7 SUBDIVISION STANDARDS

10-7.1 General

(A) Design

All proposed subdivisions, including group developments, shall comply with this Article, shall be designed to promote beneficial development of the community, and shall bear a reasonable relationship to the approved plans of the County.

(B) Development Name

In no case shall the name of a proposed development duplicate or be phonetically similar to an existing development name in Nash County unless the proposed development lies adjacent or in proximity to the existing development.

(C) Reasonable Relationship

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable connection to the need for public facilities attributable to the new development.

Whenever a tract to be subdivided includes or adjoins any part of a thoroughfare or collector road as designated by an officially adopted County Thoroughfare Plan, that part of such proposed public right-of-way shall be dedicated as public right-of-way within the subdivision plat in the location and to the width recommended by the Thoroughfare Plan or this Article.

10-7.2 Lot Dimensions and Standards

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and shall conform to the following:

(A) Conformance to Other Regulations

Every lot shall have sufficient area, dimensions, and road access to permit a principal building to be erected thereon in compliance with all zoning and other requirements of this Ordinance.

(B) Minimum Building Area

Every lot shall have at least forty percent of its total area, or 3,000 square feet, whichever is less, of contiguous buildable area of a shape sufficient to hold a principal building. Said area shall lie at or be filled to an elevation at least one foot above the 100-year flood elevation. (Note: Article XII or Federal wetlands regulations will prohibit or restrict fill placement in certain locations.) If not supplied by public sewer, an area sufficient to support the initial septic system and repair shall be located on the same lot as the principal structure it serves unless the following criteria are met:

- (1) Off-Site Wastewater System for an Individual Lot or Principal Structure
 - (a) Off-site systems (including initial and repair) are located on contiguous property to the building site. "Contiguous property" includes any property abutting the building site and properties across the road or easement that would otherwise abut the property. In no case shall the distance of the off-site lot exceed 200' from any point of the building lot.
 - (b) The off-site system(s) may be proposed by a soil scientist; however, Nash County Environmental Health shall perform a soil evaluation and determine the final design before preliminary plat approval.
 - (c) Both the initial septic system and the primary repair area including piping, etc. shall be installed at 100% and approved prior to recordation of the final plat.

- (d) An area large enough to accommodate the initial septic system, a primary repair area, and a secondary repair area as permitted by Nash County Environmental Health shall be set aside on the special purpose lot for the off-site system.
- (e) Off-site systems shall require an ORC (Operator in Responsible Charge) and shall be inspected and reported to Nash County Environmental Health twice/year.

(2) Off-Site Wastewater Systems for Multiple Lots or Principal Structures

Two or more lots or principal structures may be served by private wastewater systems located on property under common ownership or control that is separate from the building lot(s), provided that the off-site wastewater systems are permitted by the North Carolina On-site Wastewater Protection Branch.

(Amended 2/6/2023, A-221201; Amended 3/6/2023, A-230201; Amended 6/2/2025, A-250501)

(C) (Reserved)

(D) Lot Line Configuration

Side lines of lots should be at or near right angles or radial to road lines. No intersecting lot lines shall have an angle of less than 60 degrees.

(E) Lot Lines and Drainage

Lot boundaries shall coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways.

(F) Lots on Roads with Higher Daily Traffic

Subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads with a projected, post-development average daily traffic (ADT) over one thousand (1000). ADT shall be calculated by using the latest available NCDOT data plus three percent (3%) for each year in which current information is not available and then adding ten (10) trips per lot proposed in the subdivision.

Exceptions:

- Lots may be approved abutting these roads provided that the lot accesses directly onto a proposed interior street that is part of an approved, overall sketch plan of the property. Once interior lots are proposed for the subdivision, the proposed street shall be constructed to the appropriate standard (either public or private); or

- Lots may be developed that propose direct vehicular access to these roads provided that:
 1. The minimum lot width shall as least be doubled; and
 2. The property may not be further subdivided below the double frontage; and
 3. Only one principal structure is allowed per lot.
- Lots may be developed that propose direct vehicular access to these roads provided that:
 1. the lot width shall at least be 1.5 times the minimum for the zoning district in which the property is located; and
 2. For every 1' (foot) of frontage less than 2.0 times the amount of minimum required frontage, the minimum lot size shall be increased by 1,000 square feet; and
 3. Only one principal structure is allowed per lot; or
- Lots may be developed that propose direct vehicular access provided that the proposed subdivision is accompanied by a written request for waiver in accordance with Section 10-8.2 demonstrating a physical hardship or equal or better performance (ex. Turn lane) and is approved by the Board of Commissioners;or
- Lots may be developed that propose direct vehicular access to these roads and that satisfy the standard dimensional requirements for the zoning district in which the property is located (without any additionally required lot width or lot area) provided that the resulting lots contain existing principal structures legally constructed or placed prior to May 2, 2005 - the original effective date of subsection (F). The subdivision plat shall include a note stating: "No additional driveways or points of vehicular access shall be permitted for the lot(s) shown hereon."

(Amended 10/3/2016, A-160901; Amended 12/6/2021, A-211101)

(G) Access Requirements

All lots must have public road access and frontage meeting the requirements set forth in Article IX (Zoning). The following exceptions may be approved:

- (1) Lots and units located in developments with Owners' Associations or in group developments in which permanent access is guaranteed by means of approved private roads and/or drives designed in accordance with the requirements of Section 10-7.3(G).
- (2) Lots served by an Access Easements meeting the following criteria:
 - (a) An Access Easement shall serve 3 or less interior residential lots and no more than four (4) lots total including corner lots and remaining tracts.
 - (b) Developments that propose access and utility easements must demonstrate that the potential for development of the tract is limited to the maximum number of lots described in (a) above. Limited development potential shall be demonstrated by one or more of the following:

- i. Limited size or configuration of the tract;
 - ii. Poor soil suitability as demonstrated through a professional soil scientist report demonstrating that the tract will support no more than a total of four (4) conventional septic systems as defined by NCAC 18.4.1955; *(amended 10/3/11)*
 - iii. Limiting wetland areas delineated by the Army Corps of Engineers;
 - iv. Limiting topographic features demonstrated by surveyed contours;
 - v. Other similar limiting, verifiable environmental or physical features.
- (c) One interior lot that is required by a lending institution to be created from a larger tract for financing purpose may be created on an easement. The easement shall have a minimum width of 45 feet and shall be designed in conformity with NCDOT standards for future road development. A statement from the lending institution citing the need for creating such lot shall be submitted with the subdivision plat. The requirements of subsections (d) through (i) shall apply.
- (d) All lots must access the easement for purpose of ingress and egress
- (e) The minimum easement width shall be 45 feet and shall connect to a public road; however, the Planning Board may recommend a waiver of this requirement based on Section 10-8.2 Grounds for Waivers
- (f) The minimum separation between the proposed Access and Utility Easement and any portion of another Access Easement on the same tract shall be 150 feet.
- (g) There shall be, within the access easement, a minimum passable travel way of at least 20 feet in width which shall be constructed to serve each lot.
- (h) The location of the easement must be recorded on the plat.
- (i) The following notations shall be placed on the face of the plat:
- 1. No additional lots, including resubdivision of the lots served by the Access and Utility Easement, shall be permitted unless the Access and Utility Easement is upgraded by the property owner(s) to a private road or public road status and meets or exceeds the Nash County private road standards or the NCDOT public road standards (whichever is applicable).
 - 2. Each lot is limited to only one single family dwelling and its accessory structures.
- (3) Lots of record provided there is recorded access easement of at least 18 feet in width and the use is limited to only one single-family dwelling and its accessory structures, except for lots with pre existing septic systems approved under zoning regulations prior to April 1, 1999 and the septic system and or well do not require major repair to be approved by the Nash County Health Department. The lot must meet the other dimensional requirements of the Zoning District, except for lot width.

(H) Water and Sewage Disposal

Every subdivision lot intended for building purposes shall be served by a public or private water supply system and a public or private sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable health regulations. Private water supply systems and private sewage disposal systems that serve multiple subdivision lots shall be properly permitted by the appropriate state health and/or environmental agency.

(Amended 6/2/2025, A-250501)

10-7.3 Roads

(A) Conformance with Thoroughfare Plans

The location and design of streets shall be in conformance with any applicable, adopted thoroughfare plan. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum road standards may be required.

(B) Conformance with Adjoining Road Systems

The planned road layout of a proposed subdivision shall be compatible with existing or proposed roads and their classifications on adjoining or nearby tracts.

(C) Access to Adjoining Property

(a) A proposed road shall be extended to an adjacent property, or a connecting road shall be provided to the adjacent property, whenever the Planning Board, in the case of regular subdivisions, and the Subdivision Administrator, in the case of minor subdivisions, determines that such extension or connection is deemed desirable to the development of a local road network serving the general area.

(b) If the Planning board determines that the required road extension or connection should serve as part of a through road within a local road network, or as part of a non-through road that would provide access to a landlocked area; it shall be:

1. Designed and dedicated as a public road to the adjacent property; and,
2. Located so as to best ensure the safe, convenient, and efficient movement of traffic within a local road network as well as the orderly development of adjacent properties.

(c) If the road to be extended or connected to an adjacent property cannot serve as part of a through road within a local road network because of physiographical characteristics (for example, rivers, lakes, ponds, steep slopes, or flood hazard areas) or other intervening manmade characteristics (for example, railroads, freeways, parks or existing development) make it impractical to extend the road beyond the adjacent property, and it would provide access to an area with a landlocked tract, the subdivider shall grant an easement for the road to the benefit of the adjacent property. The easement shall:

1. Give the current and future owner(s) of the adjacent property the right to construct the road as either a public or private road and to dedicate the easement as a public road right-of-way if the road is constructed as a public road; and,
2. Have a right-of-way width, and including adjacent construction easements, necessary to allow the construction of a public road meeting the standards of the UDO.

(D) Reserve Strips

Reserve strips adjoining road rights-of-way for the purposes of preventing access to adjacent property shall not be permitted under any condition.

(E) Road Classification

The final determination of the classification of roads in a proposed subdivision shall be made by the County.

(F) Public Road Design Criteria

Public roads shall be designed in accordance with the North Carolina Department of Transportation (NCDOT) Subdivision Roads, Minimum Construction Standards. When a municipality providing the proposed subdivision with utility service(s) requires that its public road standards be adhered to and where those standards exceed the NCDOT road standards, the municipality's road standards shall be complied with.

(G) Private Road Design Criteria

- (1) Where Permitted. Private roads shall be permitted in developments with Owners' Associations and in group developments and shall not access more than 10 lots, tracts, parcels.
- (2) Minimum Design and Construction. The minimum design standards for all private roads will be equivalent to the minimum NCDOT Construction Standards except that private roads serving not more than 10 lots may be stabilized with a minimum of four inches of crush run in lieu of paving. All cul-de-sacs shall have a minimum 45-foot travel surface radius. Block lengths and block design shall comply with the requirements of Section 10-7.5.
- (3) Owners' Associations Required. An Owners' Association is required to own and maintain all private roads allowed under this Ordinance. All private roads will be indicated as such on the plat.
- (4) Private Through Roads. No through road in a residential area connecting two public streets can be designated as a private road, unless approved by the Board of Commissioners.
- (5) Connections to Public Roads. All private roads, connecting with public roads, require an approved driveway application from the NCDOT.

- (6) Sidewalks. In the event sidewalks are constructed, the minimum width shall be 4 feet.
- (7) Disclosure Statement. A disclosure statement in accordance with NCGS 136-102.6 shall be recorded simultaneously with the plat and referenced on the final plat. The disclosure statement must contain the provision(s) for construction and/or maintenance of the private road. See Appendix A-2-2(H).

(H) Intersecting Road Angle

- (1) All roads shall intersect at or as near to 90 degrees as possible, but in no case shall the angle of intersection be less than 75 degrees.
- (2) All roads crossing natural areas, wetlands, or stream buffers must cross at or as near to 90 degrees as possible within topographic limits.

(I) Minimum Block Length and Maximum Cul-de-sac Length

The minimum block length shall be 400 feet unless (1) The road accesses four or more lots; and (2) The road is not required to be extended to access adjoining landlocked parcels or is not required as part of a through street; and (3) The design meets NCDOT public road standards. The maximum distance from an intersecting through road to the end of a cul-de-sac shall be 1200 feet, except where, upon the recommendation of the Planning Board and the approval of the Board of Commissioners, existing conditions warrant a modification of this requirement.

(J) Minimum Road Offset

Where roads are offset, the centerlines shall be offset no less than 150 feet.

(K) Curb and Gutter

Curbs and gutters, if provided, shall be constructed in conformance with the design criteria of the NCDOT.

(L) Temporary Turnarounds

Roads stubbed to adjoining property or phase lines may be required to have a temporary turnaround at the end of the road which will be sufficient to permit service vehicles to turn around.

(M) Grades at Intersections

The grade on stop roads approaching an intersection shall not exceed 5 percent for a distance of not less than 100 feet from the centerline of the intersection, unless topographical conditions dictate otherwise.

(N) Sight Distance Easements

Triangular sight distance easements shall be shown in dashed lines at all road intersections and so noted on the subdivision plat. These easements will remain free of all structures, trees, shrubbery, and signs, except utility poles, fire hydrants, and traffic control signs. The location and extent of sight distance easements will be determined by the NCDOT.

(O) Road Names

Roads which are obviously in alignment with existing roads shall generally bear the name of the existing road. Road names shall not duplicate or closely approximate phonetically the names of existing roads in Nash County. Road suffixes and addresses shall conform to the standards established by Nash County.

(P) Road Name and Traffic Control Signs

Road name and traffic control signs which meet Nash County and NCDOT specifications shall be placed at all road intersections. The developer shall purchase all road signs through the County according to a fee schedule established by the Board of Commissioners. The developer shall be responsible for installing all traffic control signs. The maintenance of signs on private roads, drives, or lanes shall be the responsibility of the owner or of an Owners' Association, as applicable.

10-7.4 Road and Utility Construction

(A) Plans

Construction plans for all road facilities shall be submitted to the NCDOT before preliminary approval. Construction plans for all water and sanitary sewer facilities shall be submitted to the appropriate utility provider before preliminary plat approval. For each subdivision section, the road and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

(B) No Construction Without Plan Approval

No road improvements shall be constructed until the road construction plans have been reviewed and approved by the NCDOT. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider.

(C) Inspection

Work performed pursuant to approved road and utility construction plans shall be inspected and approved by the NCDOT and the appropriate utility provider.

(D) Wet Detention Ponds and Soil Erosion and Sedimentation Control Devices Installation

Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of road and utility construction.

(E) Public Water and Sewer and Stormwater Construction Requirements

Stormwater improvements and water and sewer lines, connections, and equipment shall be constructed in accordance with state and local regulations and to the specifications of the utility provider. A set of engineer-sealed record drawings shall be submitted with the final plat that includes the following:

- i. Stormwater facilities including any structure visible from the surface of the land, BMP's, conservation easements, culverts, etc.
- ii. Water facilities including water lines, with diameter, pipes, hydrants, valves, meters, blow offs, booster pumps, backflow preventers, encasement pipes', etc.
- iii. Sewer facilities including force mains and gravity sewer lines with diameter, manholes, cleanouts, taps, air release valves, lift stations, etc. (*Amended 1/4/10*)

(F) Water and Sewer Connection

Connection of each lot to public water and sewer utilities shall be required if the proposed subdivision is within three hundred feet of the nearest adequate lines of a public system, provided that no geographic or topographic factors would make such connection infeasible or that a specific waiver of this requirement is granted by the Board of Commissioners. Where public sewer is not available, lots shall be evaluated, at the developer's expense, in accordance with "Laws and Rules for Sanitary Sewage Collection, Treatment, and Disposal 15 A NCAC 18 A 1990." Approval of the Nash County Health Department shall be obtained prior to preliminary plat approval. The final plat shall show lot(s) denied or not evaluated crosshatched and labeled "NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT."

(G) Utility and Drainage Easements

- (1) Easements shall be provided for electrical, telephone, natural gas, cable television, water, and sewer utilities where necessary to serve every platted lot. The developer and the utility provider(s) shall agree on the location and the width of the easements. Any easements for subsurface sewage disposal systems shall be delineated on the final plat and described by bearings and distances.
- (2) The developer shall transfer to the applicable utility provider the necessary ownership or easement rights to enable the utility provider to operate and maintain the utility facilities. In addition, the developer shall dedicate sufficient easement rights to accommodate the extension of utility service to adjacent or nearby properties whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments.
- (3) Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-

of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose of drainage. Parallel streets may be required in connection therewith.

- (4) Lakes, ponds, creeks, and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The acceptance of such dedicated areas must be approved by the Planning Board before the Board of Commissioners will consider accepting it.

(H) Stormwater Management

- (1) An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.
- (2) The storm drainage system shall follow existing topography as nearly as practical, shall divert stormwater away from surface waters, and shall incorporate stormwater Best Management Practices to minimize adverse water quality impacts.
- (3) Subdivisions located within a watershed protection overlay district that utilize the high density option shall comply with the stormwater management requirements of Section 12-1.12.

10-7.5 Blocks

- (A) Intersecting streets shall be laid out at such intervals that block lengths are not more than 1,200 feet nor less than 400 feet except where, upon the recommendation of the Planning Board and the approval of the Board of Commissioners, existing conditions justify a modification of this requirement.
- (B) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or nonresidential uses.
- (C) Pedestrian ways or cross walks, not less than ten feet in width, shall be provided near the center and entirely across any block 1,200 feet or more in length or at the end of cul-de-sacs, where deemed essential, in the opinion of the Board of Commissioners, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, transportation or other similar facilities.

10-7.6 Buffer Areas

- (A) In residential districts, a buffer strip at least fifty feet in depth, in addition to normal lot depth required, shall be provided adjacent to all railroads and limited access highways. This strip shall be a part of the platted lots and shall have the following notation lettered on the face of the plat: This strip is reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited.'
- (B) A minimum one hundred-foot vegetative buffer is required for all new subdivisions located within a watershed protection overlay district that utilize the high density development option authorized by Section 12-1.12; otherwise, a minimum thirty-foot vegetative buffer is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Additional buffer area requirements are delineated in Section 12-1.7.

10-7.7 Sites for Public Uses

In subdividing property, due consideration shall be given by the developer to the reservation of suitable sites for school and other public uses in accordance with NCGS 153 A-331.

10-7.8 Placement of Monuments.

The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing monuments.

10-7.9 Flood Standards Pertaining to Subdivisions

Proposed subdivisions in flood hazard overlay districts shall comply with the requirements of Section 12-2.

10-8 WAIVERS

10-8.1 Approval Authority

The Board of Commissioners may approve waivers to standards in this Article except as noted in Section 10-8.4.

10-8.2 Grounds for Waivers

The Board of Commissioners may waive standards in this Article under one of the following circumstances:

(A) Physical Hardship

Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Article would cause unusual and unnecessary hardship on the subdivider.

(B) Equal or Better Performance

Where in its opinion a waiver will result in equal or better performance in furtherance of the purposes of this Ordinance.

(C) Unintentional Error

Where through an unintentional error by the applicant, his agent, or the reviewing staff, there is a minor violation of a standard in this Article, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

10-8.3 Conditions

In granting waivers, the Board of Commissioners may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

10-8.4 Waivers Affecting Subdivisions In Watershed Protection Overlay Districts

Any waiver which would have the effect of waiving or relaxing any of the watershed protection management requirements delineated in Section 12-1.10 shall follow the procedural requirements of Section 7-2.3.

10-9 MODIFICATIONS

Modifications to approved preliminary plats shall be made in accordance with the requirements of Section 4-12.

ARTICLE XI
DEVELOPMENT STANDARDS

11-1 SIGNS

The purpose and intent of this Section is to recognize that signs serve a legitimate public service and that they complement and support trade, tourism and investment within Nash County. These regulations are intended to establish standards which maximize the effectiveness of permitted signs while limiting visual distraction to motorists and preserving the land values and natural attractiveness of the area.

All signs except those specifically listed in Section 11-1.3 shall be erected, installed, or modified only in accordance with a duly-issued and valid sign permit issued by the Zoning Administrator. Sign permits shall be issued in accordance with the requirements and procedures of Article IV, Permits and Procedures, and the submission requirements of Appendix 3. If plans submitted for a zoning or special use permit include sign plans in sufficient detail that the permit issuing authority can determine whether the proposed sign(s) comply with the provisions of this Section, then issuance of the requested zoning or special use permit shall constitute approval of the proposed sign(s).

11-1.1 Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section should have the meaning indicated when used throughout Section 11-1.

(A) Sign

Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, or tradenames or trademarks by which anything is known (including any surface, fabric or other material or structure designed to carry such devices such as are used to designate or attract attention to an individual, firm, an association, a corporation, a profession, a business, or a commodity or product) which are exposed to public view and used to attract attention.

(B) Advertising Signs (Billboards)

A sign which publicizes and directs attention to a business, profession, commodity, activity, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located. Three classifications of advertising signs are established and include:

- (1) Type I - located so as to be visible primarily from Federal Aid Primary Roads.
- (2) Type II - located so as to be visible from North Carolina Primary Roads.

(3) Type III - located so as to be visible from North Carolina Secondary Roads.

(C) Animated Sign

Any sign which flashes, revolves, rotates or swings by mechanical means, or which uses a change of lighting to depict action, or to create a special effect or scene.

(D) Banner

A temporary sign of light weight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more edges. National, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

(E) Building Marker

A sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface, or made of bronze or other permanent material.

(F) Canopy Sign

Any sign which is a part of or attached to an awning, canopy or other fabric-like or plastic protective structure which is extended over a door, window, or entranceway. A marquee is not a canopy.

(G) Commercial Message

Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. This definition does not include company nameplates or logos on instructional signs.

(H) Construction Sign

A sign on a construction site during the period of construction on which is printed or written the name of the owner, developer, contractor, architect, planner, engineer, or development title. Parcels that do not abut a public or private road can have one construction sign placed at the easement to the parcel as long as it is placed outside any right of way.

(I) Electronically Controlled Message Sign

A sign on which the copy changes automatically on a lampbank, such that the message or display does not run continuously in the travel mode, and any message or display remains stationary for a minimum of one second on roads where the speed limit is fifty-five miles per hour or greater, or two seconds on roads where the speed limit is less than fifty-five miles per hour. Any sign on which the message or display runs continuously in the travel

mode and/or on which any message or display does not remain stationary for a minimum of one second on roads where the speed limit is fifty-five miles per hour or greater, or two seconds on roads where the speed limit is less than fifty-five miles per hour, shall be considered a flashing sign.

(J) Flashing Sign

A type of animated sign which contains an intermittent, blinking, scintillating, or flashing light source, or which includes the illusion of intermittent or flashing light, or an externally mounted intermittent light source. An electronic changeable copy sign is not a flashing sign.

(K) Freestanding Sign

Any sign which is supported by structures or supports which are placed on, or anchored in the ground, and which structures or supports are independent from any building or other structure.

(L) Governmental Sign

Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(M) Identification Sign

A permanent sign announcing the name of a subdivision, residence, group housing project, church, school, park or quasi-public structure or facility, and uses permitted in A-1 and residential zoning districts.

(N) Incidental Sign

A sign which provides only information for the convenience and necessity of the public. Company logos may be displayed on such signs but must not occupy more than 25% of the sign area. Incidental signs include directories, entrance, exit and other necessary directional signs.

(O) Menu Sign

A permanent on-premises sign located at businesses which provide drive-up or drive-through services such as fast food restaurants, banks, laundries, etc. Menu signs shall be located so as not to create vehicle stacking problems which will interfere with the flow of traffic.

(P) Nonconforming Sign

Any sign which does not conform to size, height, location, design, construction, or other requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

(Q) On-Premises Sign

A sign which publicizes and directs attention to a profession, commodity, activity, product, service or entertainment conducted, sold or offered upon the premises where such sign is located. On-premises signs include pole and ground mounted signs. Also included are high rise pole mounted signs where permitted.

UNIFIED DEVELOPMENT ON-PREMISE SIGN:

A freestanding sign that advertises the use of structures that are part of an approved unified development project with separate out parcels recorded on a single plat shall be considered the on premise sign and limited to one per road frontage. Out parcels within the development that abut a public right of way are also entitled to one on premise sign per parcel with the following dimension requirements:

Maximum height of 12 feet; maximum of 250 square feet; and a 5 foot setback from the road right of way and property line. Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction

(R) Portable Sign

A sign not permanently attached to any surface.

(S) Professional or Occupational Sign or Name Plate

A sign which publicizes and directs attention to a rural family occupation or to a profession.

(T) Projecting Sign

Any sign which is end mounted or otherwise attached to an exterior wall of a building which forms an angle with said wall.

(U) Real Estate Sign

A sign which advertises the sale, rent, or lease of property and located on the parcel that is for sale, rent or lease. In situations where a parcel is located on a recorded access easement, a real estate sign may be placed at the intersection of the access easement and the public road. The sign shall not be placed within the right of way of any easement, private or public road.

(U-1) Real Estate Directional Sign

A sign which indicates the direction to or from a property for sale, lease or rent which is not located on said property for sale, lease or rent.

(V) Sign Area

The area of a sign shall be measured in conformance with the following:

- (1) The area of the face of a sign shall be calculated to include the outermost part which forms the shape or display. Necessary supports and trim moldings shall not be included when calculating the area of

the sign. Aprons below Type I advertising signs shall not exceed 3' in height. Type II and Type III advertising signs aprons shall not exceed 2 feet in height. Aprons serve an aesthetic function and shall not be used for any purposes other than to identify, by name, the sign company responsible for the sign.

- (2) In computing the area of a sign, standard mathematical formulas for common regular geometric shapes (triangle, parallelogram, circle and ellipse, or combinations thereof) shall be used.
- (3) In the case of an irregularly shaped sign or a sign with letters and/or symbols affixed to or painted, displayed or incorporated into or upon a wall, canopy, awning or decorative facade of a building, the area of the sign shall be the area within the singular continuous perimeter, outlining the limits of the writing, representation, emblem, or any figure of similar character.
- (4) Back-to-back and V-type signs mounted so as to be connected and not spread more than 15 feet will be considered as one sign location when calculating horizontal separation between signs. Type I, II, and III advertising signs (billboards) shall not be stacked, horizontally or vertically.

(W) Sign Height

The vertical distance measured from the ground elevation where the sign is located, to the highest point of the sign except as follows: When the ground elevation is different from the elevation of an adjacent road, the height of a sign shall be measured from the road elevation of the adjacent road at the edge of the pavement.

(X) Temporary Signs

Temporary signs are those signs which relate to such events as elections, farm auctions, yard sales, agricultural production sales, annual charitable, civic or fraternal events, bona fide grand openings and home show openings.

(Y) Wall Sign

A sign which is attached to a wall or facade of a building or canopy.

(Z) Warning Sign

Any sign with no commercial message 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.

11-1.2 Sign Standards

- (A) Sufficient documentation shall be submitted to the Zoning Administrator for review to assure that wind and stress requirements have been met prior to

any permit being issued. Such documentation shall be signed and sealed by a registered North Carolina Architect or Engineer.

- (B) All signs shall be installed and maintained in compliance with the North Carolina State Building Code and the National Electrical Code and shall have appropriate permits and inspections. Electrical signs and fixtures shall bear labels of a nationally accepted testing laboratory.
- (C) All signs shall be maintained in a state of good repair and shall present a neat, well-kept appearance.
- (D) All lights used for the illumination of a sign shall be shielded so that the light will not shine directly on surrounding areas or create a traffic hazard or distraction to operators of motor vehicles on the public thoroughfares. The Zoning Administrator shall have the power to order a change in the illumination of any sign that becomes a hazard or a nuisance.
- (E) No illuminated sign, other than professional or occupational signs or nameplates, on-premises signs, incidental signs, or identification signs shall be permitted within 100 feet of any residential zone. Illuminated signs other than those listed above which are located within 300 feet of a residence or residentially zoned district shall not be illuminated between the hours of 12 midnight and 6 a.m.
- (F) The Zoning Administrator or his authorized representative shall have the authority to order the painting, repair, alteration or removal of a sign, at the expense of the owner of such sign, which shall constitute a hazard to safety, health or public welfare by reasons of inadequate maintenance, dilapidation or obsolescence. The existence of a sign or its support structure with no message display for a period of 90 days, shall be justification to declare the sign abandoned and require its removal.
- (G) Any sign erected without proper permits or in violation of this Ordinance shall be brought into compliance within 30 days of notification by the Zoning Administrator or said sign shall be removed immediately. Should the Zoning Administrator be unable to contact and/or identify the owner of off-site advertising signs in violation of this ordinance, he may remove the sign as long as no mechanical equipment is required for its removal. Any real estate directional signs situated in the right of way or site triangle of any public or private road shall be removed by the Zoning Administrator without any notice to the real estate agency or sign owner.

11-1.3 Exempt Signs

The following listed signs are subject to all placement and dimensional requirements of this Section and shall comply with the North Carolina Department of Transportation sight distance and road rights-of-way clearances. The following listed signs shall, however, be exempt from permit and fee requirements. Exempt signs shall be maintained in good condition and shall not constitute a hazard to safety, health or public welfare. Exempt signs which are found to be in violation shall be ordered corrected or removed.

- (A) Any warning signs; utility signs; signs for public use; and no trespassing, no hunting, or neighborhood watch signs shall contain no commercial message.
- (B) Any sign that is required by law or erected at the direction of a governmental agency.
- (C) Signs erected to regulate traffic.
- (D) Mailboxes, house numbers, nameplates, and building markers not exceeding 4 square feet in area.
- (E) Religious symbols or freestanding message board sign at a place of worship or at a church-owned or operated facility. Such symbols and message boards must meet all setbacks and lighting requirements for signs. Only one message board per facility is allowed regardless of the number of structures or parcels that may be assembled as part of the church or place of worship.
- (F) Construction signs having a maximum area of 32 square feet and a maximum height of 6 feet and limited to one sign per construction site per road frontage. Exempt construction signs must be removed within 15 days following the completion of the project.
- (G) Real estate signs having a maximum area of 12 square feet in residential areas and 32 square feet in other areas and a maximum height of 6 feet. Real estate signs are limited to one per site, per road frontage, or one per 300' of road frontage.

Temporary real estate signs associated with the marketing of a subdivision shall be limited to one sign per subdivision entrance and 32 square feet in area and 12 feet in height. This type of sign must be set back a minimum of 2 feet from all exterior property lines of the subdivision and shall remain clear of the roadway sight distance easement. An additional directory-type sign of the same dimension, height and setback requirements may be located within the interior of a subdivision. Real estate signs must be removed within 30 days following completion of the project or transaction.

- (H) Temporary signs shall not be placed more than 50 days prior to the event, election or grand opening and must be removed within 10 days following the event, election or grand opening. Such signs are limited to 32 square feet in area and 6 feet maximum height.
- (I) Advertising signs erected at ball fields or stadiums either owned by or under the supervision of the Nash-Rocky Mount Board of Education or other recognized academic school provided:
 1. Individual advertising signs may be no larger than four feet x eight feet per sign face and only have one sign face.
 2. If lighted, illumination shall only occur during programmed activities.
 3. Signs may not exceed seven feet in height except those signs mounted on a scoreboard or announcing booth.
- (J) Real estate directional signs.

11-1.4 Prohibited Signs

The following signs shall not be permitted, erected or maintained within the Nash County planning and zoning jurisdiction.

- (A) Signs with moving, revolving or rotating parts, optical illusions or movement or mechanical movements by any description or other apparent movement achieved by electrical, electronic or mechanical means, except for time, temperature, date signs; traditional barber poles; and electronically controlled message signs.
- (B) Signs with lights or illuminations which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color or use intermittent electrical pulsations, except for: time, temperature, date signs; traditional barber poles; and electronically controlled message signs.
- (C) Strings of light bulbs used in connection with commercial premises for commercial purposes other than traditional holiday decorations, during the appropriate holiday period.
- (D) Portable signs, including signs painted on or displayed on vehicles or trailers used to serve primarily as a sign, shall be prohibited except that portable signs used as temporary signs as defined in 11-1.1(X) and in compliance with 11-1.3(H) are permitted.
- (E) Signs erected, maintained, painted or drawn on any tree, rock or other natural feature.
- (F) Signs which extend vertically above the highest portion of the roof of any structure.

11-1.5 Sign Placement, Size, Height, Setback, Separation, Clearances and Construction By Sign Type

(A) Type I - Advertising Signs, Billboards

Type I advertising signs and billboards are located so as to be visible primarily from federal aid primary roads (I-95, US 64, US 264, US 301).

- (1) Maximum height: 35 feet. (In the event that unique conditions exist on a site which render the 35-foot maximum height requirement impracticable, the Board of Adjustment may, upon proper finding of facts, grant a height variance not to exceed a maximum height of 50 feet.)
- (2) Minimum separation from another billboard: 750 feet measured along the same side of the road and 300 feet radius along an intersecting or adjacent road.

- (3) Signs located within nonresidential zoning districts must comply with the separation standards as contained herein.
- (4) Maximum sign size:
 - (a) 672 square feet in area.
 - (b) 14 feet in height, 48 feet in width.
 - (c) Top outs and side outs are permitted in addition to the above sign area dimensions. Top outs and side outs shall be confined to the immediate plane of the sign and may extend above and/or to the side of the sign face a maximum of two feet. Top outs and side outs shall not exceed a total of 32 square feet in area.
- (5) Minimum setback from the road right-of-way: 5 feet.
- (6) Minimum separation from other structures and side or rear property lines: 15 feet.
- (7) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
- (8) All structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.
- (9) Minimum requirements contained within the North Carolina Outdoor Advertising Control Act (North Carolina General Statute 136-126 et seq.) which are more stringent or in addition to those contained in this Section shall apply.

(B) Type II Advertising Signs, Billboards

Type II advertising signs and billboards are located so as to be primarily visible from North Carolina primary roads (NC 4, NC 33, NC 43, NC 48, NC 56, NC 58, NC 97, NC 98, NC 231, NC 561, NC 581).

- (1) Maximum height: 30 feet.
- (2) Minimum separation from another billboard: 750 feet measured along the same side of the road and 500 foot radius from another billboard on the opposite side of the same road and 300 feet radius along an intersecting or adjacent road.
- (3) Signs located within A-1 zoning districts shall maintain a minimum separation of 150 feet from any residence as measured along the road beginning at a point projected perpendicular from the near side of an existing residence to the road right-of-way and 150 feet from any residentially zoned district boundary. Signs located within all other nonresidential zoning districts must comply with the separation standards as contained herein.

- (4) Maximum size:
 - (a) 300 square feet in area.
 - (b) 12 feet in height, 25 feet in width.
 - (c) Top outs and side outs are permitted in addition to the above sign dimensions. Top outs and side outs shall be confined to the immediate plane of the sign and may extend above and/or to the side of the sign face a maximum of 1 foot. Top outs and side outs shall not exceed a total of 16 square feet in area.
- (5) Minimum setback from road right-of-way: 10 feet.
- (6) Minimum separation from other structures and side or rear property lines: 15 feet.
- (7) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
- (8) Signs greater than 72 square feet in area and/or 15 feet in height shall be of steel or wood construction.
- (9) Signs 72 square feet or less in area and 15 feet or less in height may be constructed utilizing no more than two support poles of wood or metal.
- (10) All structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.

(C) Type III Advertising and Billboards

Type III advertising signs and billboards are located so as to be primarily visible from North Carolina secondary roads.

- (1) Maximum height: 15 feet.
- (2) Minimum separation from another billboard: 750 feet measured along the same side of the road and 300 feet radius along the opposite side of the same road or an intersecting or adjacent road.
- (3) Signs located within A-1 zoning districts shall maintain a minimum separation of 150 feet from any residence as measured along the road beginning at a point projected perpendicular from the near side of an existing residence to the road right-of-way and 150 feet from any residential zoning district boundary. Signs located within all other nonresidential zoning districts must comply with the separation standards as contained herein.
- (4) Maximum size: 72 square feet in area.
- (5) Minimum setback from road right-of-way: 10 feet.

- (6) Minimum separation from other structures and side or rear property lines: 15 feet.
- (7) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
- (8) Signs 72 square feet or less in area and 15 feet or less in height may be constructed utilizing no more than two support poles of wood or metal.
- (9) Any structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.

(D) On-Premises Signs (freestanding pole, high rise or ground mounted on-premises signs)

- (1) Maximum height: 35 feet, except that businesses or industries in commercial and industrial zones and located within 3000 feet of the end of the controlled access from a federal highway may erect a sign up to 125 feet in height, known as a high rise sign. Standard Board of Adjustment rules of procedure shall be followed when considering height variances not covered by the above exception. Each case shall be considered on its own merits. If a business is granted a high rise sign under this exception and the placement of that sign is behind the rear building line of the business, the Board of Adjustment may grant an additional free standing sign which meets the standards set forth below.
- (2) Maximum Sign Size: 400 square feet of sign area per adjoining public road frontage. Maximum sign size is a cumulative total and shall not exceed 400 square feet in area when multiple displays are used on a single support. High rise signs may have a sign area equal to 5 sq. ft. in sign area for every one foot in height.
- (3) Maximum number of freestanding or ground mounted on-premises signs per parcel: 1 sign per adjoining public road frontage. In addition, a maximum of one high rise sign is allowed as described in section (1).
- (4) Minimum separation from rights-of-way, property lines and structures: 5 feet. High rise signs must be 300 feet from any other high rise sign and no closer than 100 feet from any freestanding sign greater than 10 feet in height.
- (5) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
- (6) No unfinished surfaces or structures shall be exposed on on-premises signs.

(E) Wall Signs (including canopy, awning and building facade signs)

- (1) Maximum area: 1 square foot of sign area per linear foot of building, canopy or awning per building side. Sign footage permitted per building side may not be used on other than that building side (no transfers or cumulative totals).
- (2) Minimum guaranteed wall signage area at any individual premises is 32 square feet.
- (3) The maximum projection of a wall sign shall not exceed 12 inches.
- (4) The height of a wall sign shall not exceed the height of the building or canopy facade.

(F) Professional or Occupational Name Plates and Incidental Signs

- (1) Maximum sign area: 6 square feet.
- (2) Maximum height: 30 inches if ground mounted, signs in this category may also be mounted against the structure.
- (3) Minimum setback from all property lines: 2 feet.
- (4) Maximum number of signs per business establishment: 1

(G) Identification Signs

- (1) Maximum sign area: 32 square feet.
- (2) Maximum height: 6 feet.
- (3) Minimum setback: 10 feet from all property lines.
- (4) Maximum number of signs per adjoining road frontage: 1.

(H) Menu Signs

- (1) Maximum sign area: 45 square feet.
- (2) Maximum height if ground mounted: 8 feet.
- (3) Minimum setback from all property lines: 10 feet.
- (4) Maximum number of signs per business establishment: 1.

11-1.6 Permitted Signs

Table 11-1-6, Table of Permitted Signs delineates the types of signs permitted within the various zoning districts in Nash County (see Section 9-1 for a complete description of the individual zoning districts).

Table 11-1-6 Table of Permitted Signs

Sign Type	A-1	Residential	OI	PI	LI	GI	GC	RC
Advertising Signs*								
Type I					X	X	X	X
Type II	X				X	X	X	X
Type III	X				X	X	X	X
On-Premises			X	X	X	X	X	X
Wall Sign			X	X	X	X	X	X
Professional or Occupational	X	X	X	X	X	X	X	X
Identification	X	X	X	X	X	X	X	X
Menu			X	X	X	X	X	X
Construction	X	X	X	X	X	X	X	X
Real Estate	X	X	X	X	X	X	X	X
Temporary	X	X	X	X	X	X	X	X
Exempt	X	X	X	X	X	X	X	X

Notes:

- X = Indicates permitted.
- Blank = Indicates not permitted.

*Advertising signs in this category shall also comply with the permit procedures contained in the current edition of the North Carolina Department of Transportation outdoor advertising manual.

11-1.7 Nonconforming Signs

It is the intent of this Ordinance to permit signs which were lawful before the effective date of this Ordinance to remain in service. Specific provisions regarding nonconforming signs are delineated in Section 6-7.

11-2 OFF-STREET PARKING, STACKING, AND LOADING AREAS

11-2.1 General Requirements

(A) Parking, Stacking and Loading Space Required

When any building or structure is erected, modified, enlarged or increased in capacity, or any open use is established, modified or enlarged, the requirements of this Section shall be met. For enlargements, modifications, or increase in capacity, the requirements of this Section shall apply only to such enlargements, modifications or increases in capacity.

(B) Required Number

The minimum number of required off-street parking, stacking and loading spaces is indicated in Section 11-2.3 (Number of Parking and Stacking Spaces Required) and Section 11-2.7 (Loading Areas). In cases of mixed occupancy, the minimum number of off-street parking, stacking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.

(C) Handicapped Spaces

Spaces for the physically handicapped shall be provided as required by the NC Building Code, Volume I-C.

(D) Minimum Required

In all instances where off-street parking is required, except for residential uses, a minimum of five parking spaces shall be provided.

(E) Reduction of Minimum Requirements

Unless there is a change in use requiring fewer spaces, the number of spaces shall not be reduced below the minimum requirements of this Ordinance.

(F) Maintenance

All parking, stacking and loading facilities shall be permanently maintained by the owners or occupants as long as the use they serve exists.

(G) Access

All parking, stacking and loading facilities shall have vehicular access to a public street or approved private street.

(H) Use for No Other Purpose

Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. If such land is devoted to any other purpose, the Certificate of Occupancy of the affected principal use shall immediately become void.

(I) Compliance With Air Quality Standards

The construction of or modification to (i) open parking lots containing 1,500 or more spaces or (ii) parking decks and garages containing 750 or more spaces shall comply with the concentrated air emissions standards of the NC Division of Environmental Management.

11-2.2 Parking Requirements for Change in Use

If a change in use causes an increase in the required number of off-street parking, stacking or loading spaces, such additional spaces shall be provided in accordance with the requirements of this Ordinance; except that if the change in use would require an increase of less than five percent in the required number of parking spaces, no additional off-street parking shall be required.

11-2.3 Number of Parking and Stacking Spaces Required

- (A) The minimum number of required off-street parking and stacking spaces is indicated in Table 11-2-1.
- (B) Whenever the number of parking spaces required by Table 11-2-1 results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.
- (C) For any use not specifically listed in Table 11-2-1, the parking and stacking requirements shall be those of the most similar listed use, as determined by the Zoning Administrator.
- (D) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
- (E) The Board of Commissioners recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Table 11-2-1 may result in a development either with inadequate parking space or parking space far in excess of its needs. Therefore, the permit-issuing authority may permit deviations from the requirements of Table 11-2-1 and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the general standard delineated in subsection (D). The permit-issuing authority may allow deviations, for example, when it finds that a residential development is irrevocably oriented toward the elderly, disabled or other population that demonstrates a lesser parking need or when it finds that a business or service is primarily oriented to walk-in trade. Whenever the permit-issuing authority allows or requires a deviation from the requirements of Table 11-2-1, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

**Table 11-2-1
Off-Street Parking and Stacking Requirements**

USE	SPACES REQUIRED
Residential Uses	
1) Boarding and rooming house; bed & breakfast	1/bedroom plus 2/3 employees on the largest shift
2) Congregate care, family care, or group care facilities	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
3) Multi-family dwellings (including condominiums)	
0 to 1 bedroom units	1.50/unit
2 bedroom units	1.75/unit
3 or more bedroom units	2.00/unit
4) Homeless Shelter	1/resident staff member, plus 2/3 nonresidential staff members and/or volunteers on the largest shift, plus 1/each vehicle used in the operation
5) Single-family detached; duplex & twin home dwellings; manufactured homes; townhouse dwellings; manufactured home parks	2/dwelling unit on the same lot
Accessory Uses	
1) Caretaker dwelling	2/unit
2) Home occupations	1/each non-resident employee
Recreation	
1) Amusement parks; fairgrounds; skating rinks	1/200 square feet of activity area
2) Athletic fields	25/field
3) Auditorium; assembly hall; convention center; stadium	1/5 persons based upon the design capacity of the building
4) Batting cages, golf driving ranges; miniature golf; shooting ranges	1/cage, tee, or firing point
5) Billiard parlors; tennis courts	3/table or court
6) Bowling centers	4/lane
7) Clubs; coin-operated amusement; physical fitness centers and similar indoor recreation	1/200 square feet of gross floor area
8) Riding Academy	1/ per 2 stalls
9) Go-cart raceways	1/go-cart plus 1/employee on the largest shift
10) Recreational vehicle park or campground	See Section 11-4.58(E)
11) Swimming pools	1/100 square feet of water and deck space
Educational and Institutional Uses	
1) Ambulance services; fire stations; law enforcement stations	1/employee on the largest shift
2) Churches	1/4 seats in main chapel

USE	SPACES REQUIRED
3) Colleges and universities	7/classroom plus 1/4 beds in main campus dorms plus 1/250 square feet of office space plus 1/5 fixed seats in assembly halls and stadiums
4) Correctional institutions	1/10 inmates plus 2/3 employees on largest shift plus 1/vehicle used in the operation
5) Day care, child or adult	1/employee plus 1/10 client served with parking located on-site
6) Elementary and middle schools	3/room used for offices plus 3/classroom
7) Government offices; post offices	1/150 square feet of public service area plus 2/3 employees on largest shift
8) Hospitals	1/4 in-patient or out-patient beds plus 2/3 employees on largest shift plus 1/staff doctor
9) Libraries; museums and art galleries	1/450 square feet of gross floor area for public use plus 2/3 employees on the largest shift
10) Nursing and convalescent homes	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
11) Senior high schools	3/room used for offices plus 7/classroom
Business, Professional and Personal Services	
1) Automobile repair services	3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on the largest shift
2) Banks and financial institutions	*1/200 square feet gross floor area plus stacking for 4 vehicles at each drive-through window or automatic teller machine
3) Barber and beauty shops	3/operator
4) Car washes	
a) Full-service	*stacking for 30 vehicles or 10/approach lane, whichever is greater plus 3 spaces in the manual drying area plus 2/3 employees on the largest shift
b) Self-service	*3 stacking spaces/approach lane plus 2 drying spaces/stall
5) Delivery services	2/3 employees on largest shift plus 1/vehicle used in the operation
6) Equipment rental and leasing	1/200 square feet gross floor area
7) Funeral homes or crematoria	1/4 seats in main chapel plus 2/3 employees on the largest shift plus 1/vehicle used in the largest operation
8) Hotels and motels containing...	
a) 5,000 square feet or less ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing 3,000 square feet or less	1.1/rental unit
b) more than 5,000 square feet of ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing over 3,000 square feet	1.25/rental unit
9) Kennels or pet grooming	1/300 square feet of sales, grooming or customer waiting area plus 2/3 employees on the largest shift

USE	SPACES REQUIRED
10) Laundromat (coin operated)	1/4 pieces of rental equipment
11) Laundry and dry cleaning plants or substation	*2/3 employees on the largest shift plus 1/vehicle used in the operation plus stacking for 4 vehicles/pickup station
12) Laboratories	*2/3 employees on the largest shift plus 1/250 square feet of office space
13) Medical, dental, or related offices	3/examining room plus 1/employee including doctors
14) Motion picture production	1/1000 square feet of gross floor area
15) Offices not otherwise classified	1/250 square feet of gross floor area
16) Repair of bulky items (appliances, furniture, boats, etc.)	2/3 employees on largest shift plus 1/vehicle used in operation
17) Theaters (indoor)	1/4 seats
18) Truck wash	*3 stacking spaces/stall
19) Veterinary service (other)	4/doctor plus 1/employee including doctors
20) Vocational, business, or secretarial schools	1/100 square feet of classroom space plus 1/250 square feet of office space
21) Services and repairs not otherwise classified	1/250 square feet gross floor area plus 1/vehicle used in the operation
Drive-throughs not otherwise classified	*Stacking for 4 vehicles at each bay, window, lane, ordering station or machine in addition to the use requirement
Retail Trade	
1) Bars; night clubs	1/3 persons based upon the design capacity of building plus 2/3 employees on the largest shift, located on the same zone lot
2) Convenience stores	*1/200 square feet gross floor area plus 4 stacking spaces at pump islands
3) Department stores; food stores	1/200 square feet gross floor area
4) Fuel oil sales	2/3 employees on largest shift plus 1/vehicle used in the operation
5) Furniture; floor covering sales	1/1,000 square feet gross floor area
6) Motor vehicle, motorcycle, or recreational vehicle sales or rental; manufactured homes sales	5 spaces plus 1/10,000 square feet of display area plus 2/3 employees on the largest shift
7) Restaurants	*1/4 seats plus 2/3 employees on the largest shift & 11 total stacking spaces with minimum 5 spaces at or before ordering station
8) Retail sales not otherwise classified	1/200 square feet gross floor area
9) Retail sales of bulky items (appliances, building materials, etc.)	1/500 square feet of gross floor area
10) Service stations, gasoline sales	*3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on largest shift plus 4 stacking spaces at pump islands
Wholesale Trade	
1) Market showroom	1/1,000 square feet gross floor area

USE	SPACES REQUIRED
2) Wholesale uses	2/3 employees on the largest shift plus 1/200 square feet of retail sales or customer service area plus 1/vehicle used in the operation
Transportation, Warehousing and Utilities	
1) Airport, bus and railroad terminals	1/4 seats plus 2/3 employees on the largest shift
2) Communications towers; demolition debris landfills; heliports; utility lines or substations	No required parking
3) Self-storage warehouses	1 space/5,000 square feet devoted to storage
4) Transportation, warehousing and utility uses not otherwise classified	2/3 employees on the largest shift plus 1/vehicle used in the operation
Manufacturing and Industrial Uses	
2/3 employees on the largest shift plus 1/200 square feet of retail sales or customer service area plus 1/vehicle used in the operation	
Other Uses	
Flea markets; other open air sales	1/1,000 square feet of lot area used for storage, sales, and display
Shopping Centers	
a) < 250,000 square feet gross floor area	1/200 square feet gross floor area in main building(s) (excluding theaters) plus parking as required for out parcels or theaters
b) > 250,000 square feet gross floor area	1,250 spaces plus 1/225 square feet gross floor area above 250,000 square feet

/ = Per

* = NCDOT may require additional stacking spaces on state or federal highways.

11-2.4 Design Standards for Parking, Stacking and Loading Areas

(A) Parking facilities shall be designed and constructed so as to:

- (1) Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;
- (2) Minimize delay and interference with traffic on public roads and access drives;
- (3) Maximize sight distances from parking lot exits and access drives; and
- (4) Allow off-street parking spaces in parking lots to have access from parking lot driveways and not directly from roads.

(B) Dimensional Requirements

Parking facilities shall be designed and constructed to meet the minimum parking space dimensions, aisle dimensions and other standards found in Table 11-2-2.

(C) Improvements

- (1) Paving:
 - (a) Required parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
 - (b) Access drives shall be paved and maintained from the curblineline to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

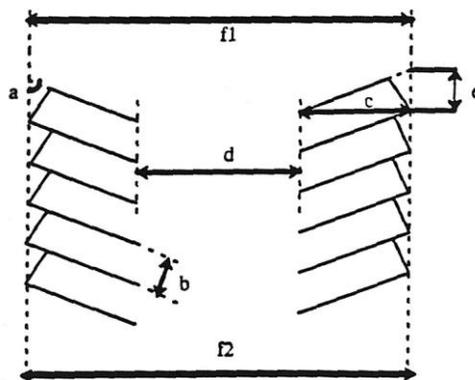
**Table 11-2-2
Parking Space Geometric Design Standards**

a	b	c	d	e	f1	f2
PARKING ANGLE (degrees)	STALL WIDTH (*)	STALL TO CURB (ft.)	AISLE WIDTH (ft.)	CURB LENGTH (ft.)	CENTER-TO-CENTER WIDTH OF TWO ROW BIN WITH ACCESS ROAD BETWEEN (ft)	
					CURB-TO-CURB	OVERLAP C-C
0	7'-6" 8'-6" 9'-0" 9'-6" 10'-0"	7.5 8.5 9.0 9.5 10.0	12.0 12.0 12.0 12.0 12.0 12.0	23.0 23.0 23.0 23.0 23.0 23.0	27.0 29.0 30.0 30.0 31.0 32.0	- - - -
30	7'-6" 8'-6" 9'-0" 9'-6" 10'-0"	16.5 16.9 17.3 17.8 18.2	11.0 11.0 11.0 11.0 11.0	17.5 17.0 18.0 19.0 20.0	44.0 44.8 45.6 46.6 47.8	41.0 37.4 37.8 38.4 38.7
45	7'-6" 8'-6" 9'-0" 9'-6" 10'-0"	17.0 19.4 19.8 20.1 20.5	11.0 13.5 13.0 13.0 13.0	10.5 12.0 12.7 13.4 14.1	43.0 52.3 52.6 53.2 54.0	48.1 46.3 46.2 46.5 46.9
60	7'-6" 8'-6" 9'-0" 9'-6" 10'-0"	17.7 20.7 21.0 21.2 21.2	14.0 18.5 18.0 18.0 18.0	8.7 9.8 10.4 11.0 11.5	47.4 59.9 60.0 60.4 61.0	44.0 55.6 55.6 55.6 56.0
90	7'-6" 8'-6" 9'-0" 9'-6" 10'-0"	17.0 19.0 19.0 19.0 19.0	20.0 25.0 24.0 24.0 24.0	7.5 8.5 9.0 9.5 10.0	54.0 63.0 62.0 62.0 62.0	- - - -

(*) 9'-0" Recommended (*) 8'-6" Minimum (*) 7'-6" Compact Cars Only, for non-required spaces only.

Stacking Space Geometric Design Standards

Stacking Spaces shall be twelve feet (12) by twenty (20) feet.



- (c) Paving shall not be required for:
 - (i) Parking facilities for public parks owned and operated by local governments or parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations. (Amended 12/3/2018)
 - (ii) Parking facilities for residential uses where six or fewer spaces are required.
 - (iii) Parking areas for agricultural uses in the Agricultural District (A-1).
 - (iv) Parking areas in the General Industrial District (GI) or manufacturing and industrial uses in the Light Industrial District (L-I), provided they are constructed with an all-weather surface.
 - (v) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.
- (d) Where parking facilities are paved, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the Zoning Administrator that such system is not practical for storm drainage purposes.
- (e) All facilities shall be graded, properly drained, stabilized and maintained to minimize dust and erosion.
- (f) All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.
- (g) All parking spaces shall be provided with wheel guards or curbs located so that no part of the parked vehicle will extend beyond the property line or encroach more than two feet into a required planting area.
- (h) Concrete pads for stationary refuse containers shall be provided beneath and in the approach to each container.
- (i) Parking lots shall be designed and constructed such that walkways shall maintain a minimum unobstructed width of four feet (vehicle encroachment is calculated as two feet beyond curb).

11-2.5 Location

(A) Off-site Parking Lots

When required off-street parking is permitted to be located off-site, it shall begin within five hundred feet of the zone lot containing the principal use. Required off-street parking shall not be located across an intervening major or minor thoroughfare.

(B) Parking in Nonresidential District

Automobile parking for any use may be provided in any nonresidential district.

(C) Parking in Residential Districts

Surface parking in a residential district for any use not permitted in that district is allowed under the following conditions:

- (1) Property on which the parking is located must abut the lot containing the use which the parking serves. The property must be under the same ownership or subject to a parking encumbrance agreement. All access to such property shall be through nonresidentially zoned property;
- (2) Parking shall be used only during daylight hours;
- (3) Parking shall be used by customers, patrons, employees, guests, or residents of the use which the parking serves;
- (4) No parking shall be located more than one hundred twenty feet into the residential zoning district.
- (5) No parking shall be permitted closer than one hundred fifty feet to any public road right-of-way upon which the principal use would not be permitted driveway access; and
- (6) Long-term or dead storage, loading, sales, repair work or servicing of vehicles is prohibited.

11-2.6 Combined Parking

(A) Separate Uses

The required parking for separate or mixed uses may be combined in one facility.

(B) Shared Parking

A maximum of fifty percent of the parking spaces required for a church, theater, auditorium or assembly hall or other similar use may also serve as required spaces for another use located on the same zone lot. Shared spaces may also be located off-site as allowed in Section 11-2.5(A) (Off-site

Parking Lots). In either case, the Zoning Administrator must determine that the various activities will have peak parking demand at different periods of the day or week. Otherwise, no off-street parking required for one building or use shall be applied toward the requirements of any other building or use.

(C) Reassignment

Required off-street parking spaces shall not be leased or otherwise assigned to another use except as provided in subsection (B).

11-2.7 Loading Areas

(A) Location

Off-street loading areas shall be located on the same zone lot as the use they serve.

(B) Design Standards

(1) Minimum Number of Loading Spaces Required:

- (a) Retail operations, including restaurant and dining facilities within hotels and office buildings:

Gross Floor Area (FT ²)	11 Number of Spaces
0 - 20,000	0
20,001 - 40,000	1
40,001 - 75,000	2
75,001 - 150,000	3
150,001 - 250,000	4
For each additional 250,000 square feet or fraction thereof	1

- (b) Office buildings and hotels:

Gross Floor Area (FT ²)	Number of Spaces
0 - 100,000	0
For each additional 100,000 square feet or fraction thereof	1

(c) Industrial and wholesale operations:

Gross Floor Area (FT ²)	Number of Spaces
0 - 10,000	0
10,001 - 40,000	1
40,001 - 100,000	2
100,001 - 160,000	3
160,001 - 240,000	4
240,001 - 320,000	5
320,001 - 400,000	6
For each additional 90,000 square feet or fraction thereof	1

- (2) Each loading space shall be at least twelve feet wide, sixty-five feet long, and fourteen feet in clearance.
- (3) All off-street loading areas shall be arranged and marked to provide for orderly and safe unloading and loading, and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from a road or maneuvering on the road right-of-way shall be permitted.

11-2.8 Parking and Loading Area Landscaping

All parking lots containing ten or more spaces shall provide landscaping and screening in accordance with the standards delineated in Section 11-3.1.

11-2.9 Excessive Illumination In Parking Lots and Loading Areas

Lighting within any parking and loading area that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited.

11-3 LANDSCAPING AND SCREENING

The purpose of this Section is to establish minimum landscaping and screening requirements that provide (i) a visual buffer between parking and loading areas and public roads, (ii) a visual buffer between parking and loading areas and adjoining residential land uses, (iii) screening of solid waste collection dumpsters, and (iv) screening between certain incompatible land uses.

11-3.1 Parking and Loading Area Landscaping

(A) Roadside Buffer Yard Requirements

- (1) All parking lots containing ten or more parking spaces, except for parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations, and parking areas located within a LI, GI or PI Zoning district that does not abut a residential zone, shall include a minimum 10-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way (where such parking lot is not screened visually by an intervening building).
- (2) The required roadside buffer yard shall contain at least one canopy tree for each sixty linear feet of road frontage and each tree shall be a minimum of 8 feet in height and shall have a minimum caliper of 2 inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.
- (3) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.
- (4) All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

(B) Property Line Buffer Yard Requirements

Any parking lot and loading area (i) which contains ten or more parking spaces, (ii) which is located on a commercially-, industrially-, or institutionally-used lot, and (iii) which abuts a residentially zoned lot shall include a minimum 10-foot perpetually maintained natural or planted buffer yard along all adjoining property lines that do not coincide with road rights-of-way.

The required property line buffer yard shall comply with the planting standards set out in subsection (A) for roadside buffer yards except that there shall be one canopy tree for each 60 LF of property line adjoining a residentially zoned lot rather than for each 60 LF of road frontage.

11-3.2 Screening of Dumpsters

Solid waste collection dumpsters which are (i) located on sites used for multi-family residential, commercial, institutional, or industrial purposes and (ii) abutting a residence, residentially zoned lot, or road right-of-way shall be screened from the view of adjoining residences, residentially zoned lots, or road rights-of-way. Such

screening may consist of natural vegetation, fences, walls, or berms and shall be installed, located, or constructed so as to create an effective screen.

11-3.3 Screening of Adjoining Incompatible Land Uses

(A) Multi-family Residential Uses

Whenever 8 or more multi-family residential dwelling units are proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the multi-family use shall provide screening in accordance with the following standards:

- (1) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.
- (2) The buffer yard shall contain 2 canopy trees and 3 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted.
- (3) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.
- (4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

(B) Industrial and Commercial Uses

Whenever an industrial or commercial use is proposed to be located so that the principal building, accessory building(s), outdoor use areas, or parking and loading areas are within 100 feet of a lot which is used for residential purposes or which is zoned for residential use, the industrial or commercial use shall provide screening in accordance with the following standards:

- (1) A minimum 25-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.
- (2) The buffer yard shall contain 3 canopy trees and 5 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted.

- (3) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.
- (4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of 3 inches.

11-3.4 Alternative Screening Methods

- (A) Under certain circumstances the application of the standards delineated in Section 11-3.1 through 11-3.3 is either inappropriate or ineffective in achieving the purposes of this Ordinance. When screening is required by this Section or by other provisions of this Ordinance and the site design, topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific plan for screening to the Zoning Administrator. This plan must demonstrate how the purposes and standards of this Ordinance will be met by measures other than those listed in Sections 11-3.1 through 11-3.3. If approved by the Zoning Administrator, the alternative screening plan may be utilized to meet the requirements of this Ordinance.
- (B) A combination of natural vegetation, fences, walls and berms may be utilized to achieve the screening requirements of Sections 11-3.1 through 11-3.3 provided that the following standards are met:
 - (1) Walls (a minimum of 5 feet in height and constructed of masonry, stone or pressure treated lumber) or an opaque fence (a minimum of 5 feet in height) may be used to reduce the widths of the buffer yards required in Sections 11-3.3(A)(1) and (B)(1) by 10 feet.
 - (2) Understory trees may be substituted for canopy trees if, in the opinion of the Zoning Administrator upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.
 - (3) Wall planters shall be constructed of masonry, stone or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall planters shall be 6 inches. The effective planting area of the wall planter shall be 4 feet in width (7 feet if the wall planter contains trees).
 - (4) Any berm utilized for screening purposes shall have a minimum height of 3 feet, a minimum crown width of 3 feet, and a side slope no greater than 3:1.

11-3.5 Maintenance

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property

where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening.

11-3.6 Use of Existing Screening

When a lot is to be developed so that screening is required and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of this Ordinance. The existing screen must meet the minimum standards for screening established by this Ordinance and it must be protected from damage by pedestrians or motor vehicles. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of this Ordinance.

11-3.7 Obstructions Prohibited

Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway, or parking aisle.

11-3.8 Guarantee in Lieu of Immediate Installation of Landscaping and Screening Materials

It is recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this Ordinance and reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, the developer may provide, in accordance with the provisions of Section 4-8, an adequately secured performance bond or other security to ensure that all of the requirements of Section 11-3 will be fulfilled.

11-4 DEVELOPMENT STANDARDS FOR INDIVIDUAL USES

11-4.1 Application of Development Standards

The development standards listed herein are additional to other requirements in this Ordinance. These development standards are use-specific and apply to those uses designated with a 'D' in Table 9-3-1 Table of Permitted Uses. Uses requiring approval of a Special Use or Conditional Zoning District (designated with a 'S' or 'C' in Table 9-3-1) shall also be subject to these standards and any additional standards or conditions required by the Special Use Permit or Conditional Zoning District.

11-4.2 Standards for All Uses

The following rules apply to all development standards and uses listed below:

(A) Property Separation

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the proposed use is to be separated.

(B) Use Separation

All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principal building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified.

(C) Outdoor Lighting

Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.

11-4.2(a) Accessory Solar Panel Array (Photovoltaic)

(A) Where Required

All zoning districts.

(B) Accessory Use

- (1) Solar panel arrays shall be permitted as an accessory use to the principal structure(s) located on the same lot or as part of a nonresidential unified development.
- (2) An accessory solar panel array shall provide or supplement the power for the principal use of the property on which it is located and shall not be installed and/or used for income generation purposes where power is sold either to a utility provider or other similar third party entity for primarily offsite energy consumption. This provision shall not, however, limit the ability of the property owner to:
 - (a) Transfer or sell excess power generated onsite back to the utility provider or other third party entity; or
 - (b) Receive credit from a local utility provider for the power generated onsite as a means to offset utility bills.

(C) Adjacent Structures or Foliage

Nothing detailed herein shall be construed to mandate or require property owners adjacent, or in close proximity, to a lot where a solar panel array is being erected to manage, remove, or otherwise alter existing or future structures or foliage to guarantee solar access to the proposed array.

(D) Roof-Mounted & Integrated

- (1) Accessory solar panel arrays may be mounted on the roof or integrated into the design (i.e., shingles, canopies, etc.) of any code compliant structure.
- (2) Structural engineering demonstrating that the roof or structure can support the weight of the proposed solar panel array and that the design of the proposed solar panel array will satisfy the wind loading and uplift standards for the wind zone in which it is to be located shall be required as part of the construction permit review process.

(E) Ground-Mounted

(1) Industrial Zoning Districts

Ground-mounted accessory solar panel arrays located in industrial zoning districts shall be permitted as solar farms in accordance with the development standards of Article XI, Section 11-4, Subsection 11- 4.72(a).

(2) All Other Zoning Districts

(a) Maximum Area

Ground-mounted accessory solar panel arrays may occupy a maximum area, as measured around the perimeter of the panel array, of up to 50% of the footprint of the principal structure(s) located on the same lot, but shall not exceed a total area of one-half (½) acre in agricultural or residential zoning districts and one (1) acre in commercial or office and institutional zoning districts.

(b) Maximum Height

Ground-mounted accessory solar panel arrays shall not exceed ten (10) feet in height, as measured from the highest grade at the base of the array to its highest point.

(c) Setback Requirements

- i. Ground-mounted accessory solar panel arrays shall be located either behind the rear line of the principal structure(s) located on the same lot or a minimum of two hundred (200) feet from the front property line as measured to the nearest extension of any part of the solar panel array.
- ii. Ground-mounted accessory solar panel arrays shall meet the standard side, rear, and street side (corner) property line setbacks required for principal structures by the zoning

district in which they are located as measured to the nearest extension of any part of the solar panel array.

(d) Separation From Structures

Ground-mounted accessory solar panel arrays shall be located a minimum of five (5) feet from any principal or accessory structure as measured to the nearest extension of any part of the solar panel array.

(e) Sight Distance

Ground-mounted accessory solar panel arrays shall not impair the sight distance required for safe road access to or from the property or other properties in the vicinity.

(f) Screening

Ground-mounted solar panel arrays accessory to commercial or industrial land uses shall be subject to the adjoining incompatible land use screening requirements of Article XI, Section 11-3, Subsection 11-3.3 (B) except that understory trees may be substituted for any required canopy trees.

(g) Onsite Well & Wastewater System Avoidance

A certificate of compliance shall be issued by the Nash County Environmental Health Division prior to the installation of ground mounted accessory solar panel arrays on lots containing either an onsite well or wastewater (septic) system in order to verify that the proposed location of the array shall meet any required separation distances.

(h) Wind Loading

Structural engineering demonstrating that the design of the proposed solar panel array will satisfy the wind loading and uplift standards for the wind zone in which it is to be located shall be required as part of the construction permit review process.

11-4.3 Adult Bookstore, Adult Theater, Adult Massage Parlor.

(A) Where Required

GC district.

(B) Conformance with County Ordinances

The use shall conform to the requirements of the Ordinance to Regulate Adult Businesses and Sexually Oriented Businesses in Nash County and the

Ordinance of the County of Nash to Provide for Regulation and Licensing of Massage Establishments or Parlors, as applicable.

11-4.4 Airport or Air Transportation Facility

(A) Where Required

OI, GC, and PI districts.

(B) Minimum Area

Fifty acres for Basic Utility Stage 1 airport with 2,000-foot runway. More area is required for larger airports. Airport size and layout shall conform to FAA Advisory Circular 150/5300-4B.

(C) Use Separation

There shall be a minimum 300-foot distance between the airport property and the nearest residence.

(D) Fencing

Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum 6 feet in height.

11-4.5 Ammunition, Small Arms Manufacture

(A) Where Required

GI District.

(B) Use Separation

No such facility shall locate within a 500-foot radius of any residential or office and institutional zoning district.

(C) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of such a facility.

(D) Operation

The facility and its operation shall observe all Fire Prevention and Protection requirements.

11-4.6 Amusement or Water Parks, Fairgrounds

(A) Where Required

A-1 district.

(B) Minimum Area

Minimum lot size shall be 5 acres.

(C) Property Separation

No buildings or structures, temporary or otherwise, shall be located within 50 feet of any property line.

(D) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the park activities.

(E) Use Separation

No amusement equipment, machinery or mechanical device of any kind may be operated within 200 feet of any residentially used or zoned property.

11-4.7 Amphitheaters

(A) Where Required: OI and GC districts.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the amphitheater.

(C) The amount of noise generated shall not disrupt the activities of adjacent land uses.

(D) Parking generated by the event must be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.

(E) Principal access must be from a collector or higher capacity road.

(F) No part of any theater screen, projection booth, or other building shall be located closer than 500 feet to any existing residence or any closer than 50 feet to any other property line or public road right-of-way. No parking space shall be located closer than 100 feet to any residentially-used or zoned property.

(G) The amphitheater stage shall not face or be visible from a road or highway unless screened with an approved solid barricade screen.

11-4.8 Animal Rendering

(A) Where Required

GI district.

(B) Property Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 150 feet from all property lines.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Dust

All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(E) Fencing

Security fencing shall be provided around all outside storage areas.

(F) Access

A truck route plan shall be submitted showing routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other land uses which would be negatively impacted by truck traffic.

(G) Odors

The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located.

11-4.8(a) Animal Shelter (Government Owned)

(A) Where Required

A1, OI, and GI Districts.

(B) Outside Storage

Pens and runs located outdoors shall be two hundred (200) feet or more from an adjacent residentially zoned or used property.

(Amended 1/4/2021, A-201201)

11-4.9 Animal Specialty Services

(A) Where Required

RC and GC districts.

(B) Outside Storage

Pens and runs located outdoors are prohibited.

11-4.10 Athletic Fields

(A) Where Required

A-1 and all residential districts.

(B) Access

All athletic fields shall have access to collector or higher capacity road.

(C) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.11 Automobile Repair Services

(A) Where Required

RC district.

(B) Maximum Built-Upon Area

Outdoor storage areas and all other built-upon areas shall not exceed 24 percent.

(C) Operation

No outdoor disassembly or salvaging shall be permitted.

(D) Screening

Any outdoor storage area must be screened with a 6-foot high opaque fence in addition to any landscaping or screening required by Section 11-3.

(E) Dust

All unpaved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

11-4.12 Bar, Night Club, and Tavern

(A) Where Required

RC and GC districts.

(B) Use Separation

No bar, night club or tavern shall be located within 500 feet of any other bar, night club or tavern.

(C) Property Separation

No such establishment shall be located within 500 feet of a church, elementary or secondary school, public park, or residentially-zoned lot. In no case shall such establishment be located within 500 feet of an existing residence. *(Amended 10/4/10)*

(D) Screening

A minimum 6-foot high opaque fence shall be erected adjacent to the property line of abutting residences. *(Amended 10/4/10)*

(E) Parking

Parking areas related to the establishment shall be located no closer than 75 feet to the property line of abutting residences, churches, elementary or secondary schools, public parks or residentially-zoned lots. *(Amended 10/4/10)*

11-4.13 Batting Cages

(A) Where Required

RC district.

(B) Security Fencing

Fencing, netting or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the designated area.

11-4.14 Bed and Breakfast

(A) Where Required

A-1 and all residential districts.

(B) Use Separation

No such facility shall locate within 400 feet of another bed and breakfast.

(C) Operation

(1) The use must be owned and operated by a resident owner.

(2) The use shall be located in a structure which was originally constructed as a dwelling.

(3) Meals served on the premises shall be only for guests of the facility.

(D) Signs

There shall be no exterior advertising except that which is permitted for a home occupation.

(E) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.15 Building Supply Sales

(A) Where Required

RC and GC districts.

(B) Screening

All outside storage shall be completely screened from view from all roads and adjacent residentially zoned property.

(C) Security Fencing

Security fencing, a minimum 6 feet in height, shall be provided around all outside storage areas.

(D) Dust

All storage areas shall be maintained in a manner so as to limit dust from drifting onto adjoining properties.

11-4.16 Caretaker Dwelling

(A) Where Required

OI, all commercial, and all industrial districts.

(B) Operation

A building permit for the principal building must be obtained or the principal use must be initiated prior to occupancy.

(C) Number

No more than 1 caretaker dwelling unit shall be permitted per lot.

- (D) A caretaker dwelling may be a manufactured home.
- (E) A caretaker dwelling shall:
 - (1) have an approved sewage disposal connection or system;
 - (2) meet all setbacks applicable to the principal building or use;
 - (3) be erected in accordance with the NC Building Code.
 - (4) be located on a lot which has sufficient lot area for both the principal use and a single-family residence.

11-4.17 Carnivals and Fairs

(A) Where Required

A-1, OI, and PI districts.

(B) Minimum Lot Area

The minimum lot size shall be 3 acres.

(C) The hours of operation allowed shall be compatible with the land uses adjacent to the carnival or fair.

(D) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(E) The permit-issuing authority shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

11-4.18 Church

(A) Where Required

All residential districts.

(B) Location

Church facilities located on sites of 3 acres or more shall have direct access to a collector or higher capacity road.

(C) Screening

All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.19 Club

(A) Where Required

A-1 and all residential districts.

(B) Location

Clubs shall have direct access to a collector or higher capacity road.

(C) Screening

All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.20 (RESERVED)

11-4.21 (RESERVED)

11-4.22 Concerts, Stage Shows

(A) Where Required

OI district.

(B) Minimum Lot Area

The minimum lot size shall be 3 acres.

(C) The hours of operation allowed shall be compatible with the land uses adjacent to the concert or stage show.

(D) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(E) The Board of Adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(F) Location

Principal access must be from a collector or higher capacity road.

11-4.23 Congregate Care Facility

(A) Where Required

R-20, R-10, R-6, OI and all commercial districts.

(B) Operation

- (1) The facility shall provide centrally-located, shared food preparation, service and major dining areas.
- (2) Common recreation, social and service facilities shall be provided at a minimum rate of 30 square feet per dwelling unit or per rooming unit.
- (3) All facilities shall be solely for the use of residents and their guests.
- (4) Facilities for administrative services and limited medical services for the exclusive use of the residents shall be located on the site.

(C) Property Separation

No such facility shall be located within one mile of an existing congregate care facility.

11-4.24 Convenience Store

(A) Where Required

OI district.

(B) Maximum Area

A maximum of 3,000 square feet of gross floor area shall be permitted per establishment.

(C) Outside Storage

No outside storage of materials shall be permitted.

(D) Gasoline Service Islands/Pumps

There shall be no more than 1 gasoline service island.

11-4.25 Correctional Institution

(A) Where Required

A-1 and OI districts.

(B) Minimum Property Line Setback

100'

(C) Use Separation

All structures, enclosed areas, and fenced areas shall be located at least 200' from any residential zoning district.

(D) Location

Principal access must be from a collector or higher capacity road.

11-4.26 Country Club with Golf Course

(A) Where Required

A-1, all residential, and OI districts.

(B) Minimum Area

The minimum area shall be 2 acres in addition to the golf course(s).

(C) Use Separation

Fifty-foot minimum distance between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent residentially-zoned property.

(D) Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public swimming pool regulations.

11-4.27 Day Care Center, Child or Adult

(A) Where Required

A-1, all residential, LI, and GI districts.

(B) Security Fencing

Outdoor activity area(s) for children shall be enclosed by a security fence at least 4 feet in height and located outside the road setback.

(C) Location

Centers on a site greater than 3 acres shall have access to a collector or thoroughfare road.

11-4.28 Demolition Debris Landfill

(A) Where Required

A-1, GC, and GI districts.

(B) Use Separation

Fifty feet minimum from any property line; three hundred feet minimum from any residence.

(C) Access

Access to the landfill shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated dumping.

(D) Dust

All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.

(E) Operation

No filling is permitted in the 100-year floodplain of any stream; no filling is permitted in utility easements.

(F) Closure

Landfills shall be closed with a minimum of 2 feet of clean soil, graded to a maximum slope of 3:1 and stabilized with vegetation or in accordance with current state standards.

(G) Signs

An entrance sign shall be posted and maintained which lists the name and phone number of the current operator, the types of material accepted, the hours of operation, tipping charges and any other pertinent information.

11-4.28a Equipment Repair Agricultural & Farm Machinery

(A) Where Required

A-1 district.

(B) Property Separation

All structures, buildings and outdoor storage or work areas used for the operation shall be a minimum of 150 feet from a residentially used or zoned lot.

(C) Operation

No outdoor disassembly or salvaging shall be permitted.

(Amended 2/3/2014, A-140101)

11-4.28b Event and Conference Venue

(A) Where Required

A1, RC, and GC districts.

(B) Minimum Area

An event and conference venue shall be located on a property with a lot area of at least ten (10) acres. For the purposes of this section, the property used for an event and conference venue may consist of multiple adjacent and contiguous parcels in the same ownership that may be separated by a road right-of-way, provided that the area used for the event and conference venue shall not be further subdivided to include less than a total of ten (10) acres.

(C) Access

Principal access to the event and conference venue must be from a paved collector or higher capacity road.

(D) Separation

- (1) The primary structures used to host events and/or any outdoor event use areas shall be located:
 - (a) No closer than two hundred (200) feet to the property line of an immediately adjacent agriculturally zoned, residentially zoned, and/or residentially used property, unless the property already includes a legally established commercial or industrial land use (Amended 11/2/2020, A-201001.)
 - (b) No closer than fifty (50) feet to the property line of an immediately adjacent office and institutionally, commercially, and/or industrially zoned or used property, provided that the property is not residentially used.
- (2) Parking spaces and loading areas may be located within the required separation distance.
- (3) Accessory structures with a gross floor area of less than six hundred (600) square feet shall be located in accordance with the standard minimum building setbacks required in the underlying zoning district.

(E) Noise

Noise generated by the event and conference venue shall be in accordance with the Nash County Code of Ordinances Chapter 16, Article III "Noise."

(F) Parking

Adequate parking spaces to accommodate the use of the event and conference venue shall be provided in accordance with Section 11-2 "Off-Street Parking,

Stacking, and Loading Areas.” Paving of the parking spaces shall not be required due to their irregular use for events.

(G) Screening

All structures, outdoor use areas, or parking and loading areas associated with the event and conference venue and located within one hundred (100) feet of an immediately adjacent lot which is agriculturally zoned, residentially zoned, and/or residentially used shall be screened in accordance with Section 11-3.3 (B) “Industrial and Commercial Uses.”

(Amended 5/4/2020, A-200301; Amended 4/7/2025, A-250301)

11-4.29 Explosives Manufacture and Storage

(A) Where Required

GI district.

(B) Property Separation

No facility shall locate within 500 feet of any residentially or office and institutionally zoned property.

(C) Setbacks

Buildings, including any accessory buildings for storage of explosive raw materials and/or final products, shall be not less than 150 feet from all property lines.

(D) Security Fencing

Security fencing, a minimum of 8 feet in height, shall be provided along the entire boundary of the facility.

(E) Operation

Building(s) shall meet the requirements for Hazardous Occupancy under the NC Building Code.

(Amended 7/11/2022, A-220601; Amended 8/1/2022, A-220701)

11-4.30 Farm Product Warehousing and Storage

(A) Where Required

A-1 and RC districts.

(B) Use Separation

All structures, buildings or enclosed areas used for the operation shall be a minimum of 100 feet from all property lines.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Dust

All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

11-4.31 Fish, Canned, Cured or Frozen Manufacture

(A) Where Required

GI district.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

(C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.32 Go-Cart Raceway

(A) Where Required

RC and GC districts.

(B) Property Separation

No raceway shall be located within 500 feet of any residentially or office and institutionally zoned property.

(C) Noise

The facility shall be sited and operated so as to not produce noise or sound which would adversely impact adjoining and surrounding properties.

(D) Dust

All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjoining properties.

(E) Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the raceway.

(F) Hours of Operation

No such facility that adjoins residentially used or zoned property shall conduct business between the hours of 11 p.m. and 8 a.m.

11-4.33 Golf Course

(A) Where Required

A-1 and all residential districts.

(B) Use Separation

Fifty-foot minimum distance between the clubhouse or other principal building(s) and any adjacent residentially-zoned property.

11-4.34 Golf Driving Range

(A) Where Required

RC district.

(B) Minimum Area

The minimum lot depth from the tees to the end of the driving area shall be 1,000 feet or the end shall be controlled with netting and/or berms to prevent golf balls from leaving the property.

(C) Security Fencing

Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area so as to prevent golf balls from leaving the driving area.

11-4.35 Group Care Facility

(A) Where Required

R-10, R-6, OI, and GC districts.

(B) Property Separation

No such facility shall be located within one mile of an existing group care facility.

(C) Operation

The facility shall be limited to not more than 30 persons including resident managers.

11-4.36 Hazardous and Radioactive Waste (transportation, storage, and disposal)

(A) Where Required

GI district.

(B) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended (PL 94-580) and the North Carolina Solid Waste Management Act, as amended (Article 13B. NCGS 130-166.16) for design, siting, and materials to be stored and treated.

(C) Property Separation

All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required separation area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.

(D) Fencing

A security fence at least 7 feet in height with a minimum 9-gauge fabric and 3 strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.

(E) Location

Vehicular access to the operation will be provided only by way of a US or NC numbered highway or an industrial area access road.

(F) All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.

(G) All sanitary sewer and stormwater management systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials. A stormwater management plan shall be prepared by the applicant and submitted to the County for review by the County and the Environmental Management Division of the NC Department of Environment, Health, and Natural Resources. A NPDES Permit for stormwater discharge shall also be obtained, if applicable.

11-4.37 Homeless Shelter

(A) Where Required

R-6, OI, and GC districts.

(B) Property Separation

No such facility shall be located within 1/4 mile of an existing homeless shelter.

11-4.38 Home Occupations *(Amended 10/4/10)*

(A) Where Required

A-1, all residential, OI, and all commercial districts.

(B) Operation

- (1) A home occupation must be a commercial use or activity that is conducted entirely within a dwelling or accessory structure by the occupants thereof, that is clearly incidental and secondary to the use of the dwelling for residential purposes and that does not change the character of the residence or create a significant adverse impact on the surrounding neighborhood.
- (2) Only 1 FTE (Full Time Equivalent) employee may be employed who is not an occupant of the residence.
- (3) Activities shall not generate traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located.
- (4) Instruction in music, dancing, art, or similar subjects shall be limited to no more than 5 students at one time.
- (5) Child or adult day care operations shall be limited to no more than 5 clients at one time.

(C) Maximum Area *(Amended 7/12/10)*

- (1) The area set aside for a home occupation within a dwelling and/or an accessory structure shall occupy no more than a combined total of 500 square feet.
- (2) Any area set aside for a home occupation within a dwelling shall occupy no more than 25 percent of the gross floor area of the dwelling unit.

(D) Outside Storage/Displays

No outside storage or display of items associated with the home occupation is permitted. No indoor displays of items associated with the home occupation shall be visible from the exterior of the dwelling or accessory structure.

(E) Signs

No sign related to a home occupation located within a residential or agricultural zoning district shall be allowed. Signs for home occupations located within nonresidential zoning districts shall conform to the requirements of Section 11-1.5 (F).

11-4.39 Horse Shows

(A) Where Required

A-1, R-40, R-30, RC, and GC districts.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the proposed horse show site.

(C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(D) The Zoning Administrator shall not grant the permit unless it finds that the parking generated by the horse show can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

11-4.40 Internet Sweepstakes Café (Amended 10/4/10)

(A) Where Required

RC and GC districts.

(B) Use Separation

No internet sweepstakes café shall be located within 500 feet of any other internet sweepstakes café.

(C) Property Separation

No such establishment shall be located within 500 feet of a church, elementary or secondary school, public park, or residentially-zoned lot. In no case shall such establishment be located within 500 feet of an existing residence.

(D) Screening

A minimum 6-foot high opaque fence shall be erected adjacent to the property line of abutting residences.

(E) Parking

Parking areas related to the establishment shall be located no closer than 75 feet to the property line of abutting residences, churches, elementary or secondary schools, public parks or residentially zoned lots.

11-4.41 Kennels or Pet Grooming;

(A) Where Required

RC and GC districts.

(B) Outside Storage

Pens and runs located outdoors are prohibited.

11-4.42 Landing Strip, Flying Field

(A) Where Required

A-1, OI, GC and PI districts.

(B) General Requirements

- (1) The applicant shall submit a scaled site plan depicting the proposed location and dimensions of the landing strip as well as any relevant required separation distances.
- (2) Use of the landing strip shall be limited to the property owner and authorized guests only.
- (3) The landing strip shall not be used commercially by any aircraft not owned by the property owner.
- (4) Prior to the operation of the landing strip, the applicant shall submit one of the following forms of documentation from the North Carolina Department of Transportation:
 - (a) An approved Aircraft Landing Area Permit;
 - (b) Verification of the submittal and receipt of an Aircraft Landing Area Permit application; or
 - (c) A statement that the proposed landing strip does not require an Aircraft Landing Area Permit.
- (5) There shall be a minimum distance of 500 feet between the ends of the landing strip and the nearest public road right-of-way and 150 feet between the sides of the landing strip and the nearest public road right-of-way unless otherwise approved by the North Carolina Department of Transportation.
- (6) There shall be no existing offsite residences located within a 500 foot distance extending in a straight line from either end of the landing strip.
- (7) No illumination of the landing strip shall be permitted.

(C) Dimensional Requirements for A1, OI, GC and PI Districts.

- (1) There shall be a minimum distance of 200 feet between any portion of the landing strip use and the nearest offsite residence or residentially zoned lot.
- (2) There shall be a minimum distance of 350 feet between the sides of the landing strip and the nearest offsite residence.
- (3) Landing strips shall only be permitted in areas of the R-40 district with a rural development pattern meeting the requirements below:
 - (a) All existing contiguous lots must have a minimum lot area of at least one acre.
 - (b) 50% of the contiguous lots must have a minimum lot area of at least 10 acres.
- (4) The property owner must reside on the same lot as the landing strip.
- (5) Commercial use of the landing strip and accessory structures is prohibited.

11-4.43 Leather and Leather Products Manufacture (tanning)

(A) Where Required

GI district.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

(C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.44 Library

(A) Where Required

A-1, all residential districts, and PI districts.

(B) Location

Libraries shall have direct access to a collector or higher classified road.

(C) Screening

All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.45 Reserved

11-4.46 Manufactured Home Park

(A) Where Required

A-1, R-20, R-15, R-10, and R-6 districts.

(B) General Requirements

- (1) Minimum Number of Manufactured Home Spaces: At least 4 spaces.
- (2) Manufactured homes shall not be sold within a manufactured home park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he resides.
- (3) The transfer of a deed to a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park as long as the manufactured home park is in operation.
- (4) Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained from the County.
- (5) Within a manufactured home park, one manufactured home may be used as an administrative office.
- (6) Convenience establishments of a commercial nature shall be limited to food stores, coin-operated laundries, beauty parlors and barber shops. These may be permitted in manufactured home parks subject to the following restrictions:
 - (a) Such establishments shall be subordinate to the residential use and character of the park.
 - (b) Such establishment shall present no visible evidence of their commercial character from any portion of any residential district outside the park.
 - (c) Such establishment shall be designed to serve the trade and service needs of the park residents only.
- (7) The Nash County Environmental Health Section, the Nash County Building Inspector, and/or the Zoning Administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Section. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for inspection.
- (8) The park owner or operator shall notify park occupants of all applicable provisions of this Section and inform them of their duties and responsibilities under this Section.

- (9) Site plans for manufactured home parks shall comply with the requirements of Article IV and Appendix 1.

(C) Manufactured Home Space Requirements

- (1) All manufactured homes shall be located on individual manufactured home spaces. Spaces served by municipal water and sewer systems or community water and sewer systems shall have at least 5,000 square feet of lot area. Spaces served by either a municipal or community sewer system, but not served by a municipal or community water system shall have at least 15,000 square feet of lot area or a larger area if determined necessary by the Nash County Health Department. Spaces served by a municipal or a community water system but not served by a municipal or a community sewer system shall have at least 15,000 square feet of lot area or a larger area if determined necessary by the Nash County Health Department per manufactured home unit, allowing no more than one manufactured home per septic tank. Spaces shall not be less in width at the setback line than the width required by the applicable zoning district in which the park is proposed. An individual manufactured home with neither municipal or community water service nor municipal or community sewer service shall not be permitted within a manufactured home park.
- (2) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners and each space shall clearly display a street address as assigned by the County.
- (3) Each manufactured home space shall be located so as not to be susceptible to flooding and shall be graded so as to prevent any water from ponding or accumulating on the premises.
- (4) Each manufactured home shall be located at least 20 feet from any other manufactured home, at least 20 feet from any building within the manufactured home park, at least 20 feet from a side external property line, the setback from a rear external property line shall be the distance required by the applicable zoning in which the park is proposed, and at least 15 feet from the edge of the right of way of any private interior road. The setback from a public road right-of-way shall be the same as that required for the zoning district in which the manufactured home park is located.

(D) Road and Access Requirements

- (1) Convenient access to each manufactured home space shall be provided by roads with a minimum right-of-way of 50 feet for a residential collector road and 45 feet for a local residential road as defined by the *North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards Manual*. The required traveled way width is 20 feet for a 50-foot right-of-way and 18 feet for a 45-foot right-of-way. Private roads within manufactured

home parks shall conform to the construction standards delineated in Section 10-7.3(G)(2).

- (2) Proper sight lines shall be maintained at all road intersections in accordance with the current NCDOT requirements for sight clearances.
- (3) New road names shall not duplicate or be similar to existing road names in the County and shall be subject to approval by the County.
- (4) Two automobile parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any road in the park.
- (5) No manufactured home space shall have direct vehicular access to a public road.
- (6) All manufactured home spaces shall directly abut a private road contained within the park.
- (7) The manufactured home park owner shall be responsible for the continued maintenance of the roads within the mobile home park.

(E) Utility Requirements

- (1) **Water Supply:** An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. Where a municipal water supply is available, connection shall be made thereto and its supply used exclusively. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the NC Division of Health Services. Placement of water improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing.
- (2) **Sewage Disposal:**
 - (a) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the NC Division of Environmental Management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the NC Division of Environmental Management. Placement of sewer improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing. Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the Nash County Health Department is obtained.
 - (b) Provision shall be made for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the rise. The rim of the

riser pipe shall extend at least 4 inches above ground elevation.

(3) Solid Waste Disposal and Sanitation Requirements:

- (a) The storage, collection, and disposal of solid waste in the manufacture home park shall be in accordance with the requirements of Nash County Health Department.
- (b) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the County Health Director.
- (c) Parks shall be maintained from an accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos, and other pests.
- (d) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building materials shall be stored at least 1 foot above the ground.
- (e) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (f) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(4) Street Lighting Requirements: All roads in the manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be a 175 watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.

(5) Electrical Service Requirements: Minimum electrical service of 200 ampere, 120/240 volt single phase shall be provided to each manufactured home space. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.

(F) Screening Requirements

When a manufactured home park is to be constructed within 50 feet of a recorded residential subdivision not naturally screened with existing vegetation located on the site of the proposed manufactured home park, the

owner of the park shall provide and maintain a 5-foot buffer yard along the adjacent boundary. The buffer yard shall be planted in evergreen trees or shrubbery or solid fencing at least 5 feet in height.

(G) Recreational Space Requirements

- (1) Each manufactured home park shall provide 400 square feet of recreational area for each manufactured home space that is less than 10,000 square feet in area. However, no recreational area required by this subsection shall be less than 2,500 square feet.
- (2) Recreational areas shall not be located in an area utilized for septic tank fields.

Section 11-4.46.1 Manufactured Home Sales.

(A) Where required
RC districts

(B) General Requirements

(1) Maximum Area:
Maximum acreage of manufactured home sales operation: 4 acres

(2) Landscaping:
Property line bufferyards shall be required for all lot lines abutting a residentially zoned or used lot, in accordance with Section 11-3.1 (B).

(3) Display areas:
Designated display areas must be indicated on the site plan.
No display area for manufactured homes may be located within a required setback or bufferyard.

(4) Operation:
Only sale models and resale units suitable for immediate occupancy may be displayed on the site. Storage of partially dismantled, damaged by fire or storm or otherwise unoccupiable units on the site is prohibited.

11-4.47 Marina

(A) Where Required

RC and GC districts.

(B) Access

The marina shall have access to a collector or higher classified road.

(C) Use Separation

There shall be a minimum 50 feet distance between any buildings, structures, or outdoor use areas associated with the marina and any adjacent residentially used or zoned lot.

(D) Dust

Any unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(E) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(F) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.48 Massage Parlor

(See Section 11-4.3.)

11-4.49 (RESERVED)

11-4.50 Minerals (Wholesale Trade of)

(A) Where Required

A-1 district.

(B) Use Separation

Outdoor storage areas shall be no closer than 50 feet to any adjoining residentially or office and institutionally used or zoned property.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Dust

All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

(E) Access

(1) Access roads leading to any part of the operation shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

(2) No part of such roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

(3) A truck route plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses which will be negatively affected by truck traffic.

11-4.51 Mining, Quarrying, Sand Pits, and Mineral Extraction

(A) Where Required

A-1 and GI districts.

(B) Use Separation

(1) The edges of any pit where a mining operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 300 feet from any property line.

(2) Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

(C) Hours of Operation

All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.

(D) Mining Permit

A valid state-issued mining permit must be obtained.

11-4.52 Nursing and Convalescent Home

(A) Where Required

A-1, R-40, R-30, R-20, RA-15A, R-15, R-10 and R-6 districts.

(B) Minimum Lot Area

8,000 square feet for the first 9 patient beds, rooms, or suites plus 1,000 square feet for each additional patient bed, room, or suite or the minimum lot area requirement for the zoning district, whichever is greater.

(C) Dimensional Requirements

The following minimum dimensional requirements shall apply to nursing and convalescent homes:

- (1) Road Right-of-Way Building Setback: 50'
- (2) Side Property Line Building Setback: 15'
- (3) Rear Property Line Building Setback: 25'
- (4) Minimum Lot Width: 100'
- (5) Minimum Building Separation: 20'

(D) Screening

All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.53 Orphanage

(A) Where Required

A-1 and R-6 districts.

(B) Minimum Lot Area

8,000 square feet for the first 9 client beds or rooms plus 1,000 square feet for each additional client bed or room or the minimum lot area requirement for the zoning district, whichever is greater.

(C) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.54 Outdoor Religious Events

(A) Where Required

OI district.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the event.

(C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(D) The Board of Adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(E) Location

Principal access must be from a collector or higher capacity road.

11-4.54 (a) Patio Home

- (A) Where Required**
A-1, RA-40, R-40, RA-30, R-40
- (B) Number**
Only one principal dwelling per lot permitted.
- (C) Access**
Patio homes must be accessed from a public road.

11-4.55 Petroleum and Petroleum Products (Wholesale Trade of

- (A) Where Required**
GI district.
- (B) Property Separation**
All storage tanks and loading facilities shall be located at least 200 feet from any property line. Storage tanks and loading facilities shall be located a minimum of 500 feet from any residentially used or zoned property.
- (C) Access**
Vehicle access to the use shall be provided only by way of a US or NC numbered highway or an industrial area access road.
- (D) Operation**
The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the Flammable and Combustible Liquids Code, NFPA 30 of the National Fire Protection Association.
- (E) Dikes**
 - (1) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
 - (2) Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes 3 feet or more in height shall have a flat section at the top not less than 2 feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than 6 feet above the exterior grade unless means

are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.

- (3) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

(F) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of such facilities.

11-4.56 Petroleum and Related Industries (Manufacture; of)

(A) Where Required

GI district.

- (B) Property Separation** - All structures, buildings, storage tanks and loading facilities shall be located at least 200 feet from any property line. Notwithstanding the above, if any structures, buildings, storage tanks and loading facilities shall be located less than 200 feet from any property line but more than 200 feet from any property line if any easement or right of way property is included in such determination, subject to written authorization from the owner of the property in which the easement or right of way exists allowing the use of the easement or right of way in the determination, then the 200 foot requirement shall be met. Storage tanks and loading facilities shall be located a minimum of 500 feet from any residentially used or zoned property.

(C) Access

Vehicle access to the use shall be provided only by way of (a) a US or NC numbered highway, (b) a State Route (SR) that based on the determination of the NCDOT District Engineer meets capacity and design standards necessary to support the projected usage, or (c) an industrial area access road. Gravel or paved roadways shall be provided to all storage tanks

(D) Operation

The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the

Flammable and Combustible Liquids Code, NFPA 30 of the National Fire Protection Association.

(E) The use shall not generate noise, vibration, glare, fumes, odor, or electrical interference beyond what normally occurs in the zoning district in which it is located.

(F) Dikes

(1) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.

(2) Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes 3 feet or more in height shall have a flat section at the top not less than 2 feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than 6 feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.

(3) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

(G) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of such facilities.

11-4.57 Pottery and Related Products Manufacture

(A) Where Required

A-1 district.

(B) Property Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 50 feet from any residentially used or zoned lot.

- (C) The use shall not generate noise, vibration, glare, fumes, odor, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.58 Private Campground/RV Park

(A) Where Required

A-1, RC, and GC districts.

(B) General Requirements

- (1) Site plans for private campgrounds/RV parks shall comply with the requirements of Article IV and Appendix 1.
- (2) No campsite shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.
- (3) Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited. There shall be no permanently attached additions.
- (4) All campsites proposed for sale shall be recorded with subsections 2 and 3 above as deed restrictions.
- (5) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a campground/recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park. In addition, stores, restaurants, beauty parlors, barber shops, and other convenience establishments shall be permitted as accessory uses in zoning districts permitting such uses subject to the following conditions:
 - (a) Such establishments and the parking areas primarily related to their operation shall not occupy more than 5 percent of the gross area of the park;
 - (b) Such establishments shall be restricted in their use to occupants of the park and/or related park association members; and
 - (c) Such establishments shall present no visible evidence from any public road of their commercial character.
- (6) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to

unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.

- (7) Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust. A soil sedimentation control plan shall be submitted in accordance with Section 12-4.
- (8) Surface drainage plans for the entire tract shall be reviewed by the Planning Director to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.

(C) Dimensional Requirements

- (1) Minimum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
- (2) In no case shall any campsite contain less than 1,500 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. Campsites shall be level and well-drained.
- (3) Recreational vehicles shall be separated from each other and from other structures within the campground/RV park by at least 10 feet. Any accessory structures such as non-attached awnings, carports for the purpose of this separation requirement, shall be considered part of the recreational vehicle. Individual storage facilities shall be at least 5 feet from all side and rear property lines. They may not be placed within the front required setback.
- (4) Recreational vehicle sites and off-street parking spaces shall not be within the setback areas required for main buildings or principal structures.
- (5) Setback areas for recreational vehicle sites shall contain natural vegetation or be landscaped and shall be used for no other purposes.
- (6) The minimum setback of any building, structure, or recreational vehicle site from a public road right-of-way shall be the same as that required for the zoning district in which the park is located.
- (7) The minimum setback from any private, interior road shall be 20 feet from the edge of pavement.

- (8) The minimum exterior side property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.
- (9) The minimum exterior rear property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.

(D) Access and Road Requirements *(Amended 9/7/2021, A-210801)*

- (1) Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.
- (2) Interior access roads not proposed for public dedication in campgrounds and parks with:
 - (a) Greater than ten (10) campsites shall conform to the NCDOT construction standards for subdivision roads. Construction plans and profiles for these interior roads shall be submitted for review and approval.
 - (b) Ten (10) or fewer campsites may be stabilized with a minimum of four inches (4") of crushed aggregate base course (CABC), crushed concrete, crushed asphalt, or similar material in lieu of paving.

In either case, the requirements for minimum rights-of-way and paving widths shall not apply, but the road or parking width shall not be less than ten (10) feet.

- (3) Entrances and exits to campgrounds/RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic into and out of the park. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within (a) 100 feet where the speed limit is 45 mph or (b) within 150 feet where the speed limit is over 45 mph or any portion of the approach lane of the access way within 25 feet of its intersection with the right hand of the lane.

(E) Parking Requirements

- (1) There shall be at least 3 off-street parking spaces designated in a campground/RV park for each 2 campsites. At least 1 space must be provided on each campsite with any residual spaces provided within 100 feet of the site.

- (2) Each campsite shall contain a stabilized vehicular parking pad of paving or other suitable material.

(F) Utility Requirements

- (1) No on-site water or sewer facilities shall be permitted on any campsite. Proposals for dumping stations and common toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Nash County Health Department. All community water facility proposals shall be approved and be subject to the requirements of the Nash County Health Department.
- (2) All water supply facilities shall have the approval of the Nash County Health Department and/or NC Division of Health Services. All sewer facilities improvements shall have the approval of the Nash County Health Department and the NC Division of Environmental Management.
- (3) All water and sewer improvements within the campground/RV park shall comply with the NC Building Code for Plumbing.

(G) Screening Requirements

Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year-round screen shall be planted, which at maturity, shall reach a minimum height of at least 8 feet. Such screening shall complement the adjacent environment.

(H) Recreational Space Requirements

A minimum of 8 percent of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

11-4.59 Private Club or Recreation Facility, Other

(A) Where Required

A-1, OI, RC and PI districts. (Amended 3/9/13)

- (B)** The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
- (C)** The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (D)** The Board of Adjustment shall not grant the permit unless it finds that the parking generated by the facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(E) Location

Principal access must be from a collector or higher capacity road for any facility greater than 3 acres in size that generates an average daily traffic volume of over 200 or more trips per day.

(F) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with requirements of Section 11-3.1(B).

(G) Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public pool regulations.

11-4.60 Public Park or Recreational Facility, Other.

(A) Where Required

All residential districts.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.

(C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(D) The Zoning Administrator shall not grant the permit unless he finds that the parking generated by the facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(E) Location

Principal access must be from a collector or higher capacity road for any facility greater than 3 acres in size that generates an average daily traffic volume of over 200 or more trips per day.

(F) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

(G) Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public pool regulations.

11-4.61 Pulp and Paper Mills

(A) Where Required

GI districts.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

(C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

(D) Access

Principal access must be from a collector or higher capacity road or an industrial area access road.

11-4.62 Radio and Television Tower, Communications Tower Over 60 feet in Height

(See Section 11-4.20);

11-4.63 Retreat Center

(A) Where Required

A-1 district.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the event.

(C) The Board of Adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(D) Location

Principal access must be from a collector or higher capacity road.

(E) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

11-4.64 Riding Academy

(A) Where Required

A-1 district.

(B) Use Separation

There shall be minimum 100-foot distance between manure storage areas, barns or stables and any adjacent residentially-zoned property.

(C) Dust

All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjoining properties.

(D) Restroom Facilities

Restroom facilities shall be approved by the Nash County Health Department.

11-4.65 (RESERVED)

11-4.66 Rural Family Occupation.

(A) Where Required

A-1, R-40, and R-30 districts.

(B) Minimum Area

- (1) The Rural Family Occupation (RFO) must be located on a tract of 2 acres or more.
- (2) A portion of the tract measuring 40,000 square feet with 100 feet of width must be designated and reserved as exclusively residential in R-40 districts; 30,000 square feet with 100 feet of width in A-1 or R-30 districts.

(C) Maximum Area

The total floor area of all buildings occupied by the RFO shall not exceed 5,000 square feet. The maximum land area that may be used in conjunction with the Rural Family Occupation is 15,000 square feet.

(D) Use Separation

All operations of the RFO shall observe a 50-foot setback from all property lines.

(E) Location

All operations of the RFO shall be located behind the rear line of the building occupied as the principal residence.

(F) Screening

All operations of the RFO, including buildings, outside storage areas, and parking shall be treated as a separate use and shall be screened in accordance with the requirements of Section 11-3.1(B).

(G) *Environmental Review: Repealed on 8/11/2025, A-250701*

(H) Operation

- (1) The RFO shall be owned by the landowner who must reside on the property.
- (2) No more than 5 persons shall be employed other than those residing on the property.
- (3) Outside storage and parking of commercial vehicles is permitted. The applicant shall indicate on the site plan the type and location of outside storage and the location and proposed number of vehicles to be parked on the lot.
- (4) The RFO shall not be operated between the hours of 9 p.m. to 6 a.m.
- (5) Permitted uses shall be limited to those products assembled or manufactured on-site for resale elsewhere, professional and business services, or stock-in-trade clearly incidental to such services. Commercial retail or wholesale operations which bring to the site goods specifically for the purpose of resale shall be prohibited.

(A) Signs

- a. Professional and Occupational signs shall be allowed in accordance with the following:
 - i. Maximum sign area – 32 sq.ft.
 - ii. Maximum height – 10 feet if ground mounted: signs in this category may also be mounted on the structure.
 - iii. Minimum setback from all property lines – 2 feet
 - iv. Maximum number of signs - 2

11-4.67 Salvage Yards, Auto Parts; Scrap Processing

(A) Where Required

GI district.

(B) Minimum Area

The minimum area required to establish a salvage yard shall be 5 acres.

(C) Use Separation

The operations of salvage yards shall not be any closer than 300 feet to any residential property line. Neither should any such operations be closer than 300 feet to the property line of any school, hospital, nursing and convalescent home, or day care facility.

(D) Screening

Salvage yards shall be enclosed by a sight obstructing screen of at least 6 feet in height adjacent to public roads and 8 feet in height adjacent to properties of a residential, educational or institutional nature. All such screens shall be maintained in a sound and stable manner for the life of the operation. Entrances and exits shall be secured when the salvage yard is closed. If state or federal requirements for screening are more stringent, such requirements shall be applicable.

(E) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 400 feet to the nearest residence. No noisy processing shall be carried on in connection with the business on Sundays, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m. and 7:00 a.m.

(F) Vibration

No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.

(G) Dust and Particulates

Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborn will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means such as to render the surface wind resistant. Points of ingress and egress shall be paved/hard-surfaced with either concrete or asphalt.

(H) Smoke and Burning

Emissions of smoke and burning of non-vegetative matter shall not be permitted on the site of a salvage yard.

(I) Trash and Garbage

Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited.

(J) Disposal of Toxic/Hazardous Matter

Disposal of toxic/hazardous matter on any salvage yard site shall be expressly forbidden.

(K) Storage of Fuels

Storage of fuels shall be contained in below ground tanks meeting the requirements of the State of North Carolina. No such fuel storage shall be within 1000 feet of any residential, educational, or institutional structure. Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.

(L) Drainage

Salvage yard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.

(M) Weeds and Vegetation

Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than 6 inches.

(N) Storage

Salvage materials shall be stored in piles not exceeding 10 feet in height and shall be arranged as to permit easy access to all such salvage for fire fighting purposes.

(O) Permit Requirements

The facility shall obtain all applicable state and federal permits.

11-4.68 Satellite Dish Antenna

(A) Where Required

All zoning districts.

(B) Location

- (1) All supporting cables and anchors shall be contained on the property.
- (2) In residential and OI districts, satellite dish antennas shall not be located or placed within any road right-of-way building setback or side building setback.

11-4.69 Service Station, Gasoline Sales

(A) Where Required

OI district.

(B) Operation

- (1) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment, and similar equipment shall be entirely enclosed within a building.
- (2) No outside storage of materials shall be permitted. The number of vehicles stored outdoors shall not exceed the number of service bays at the establishment.

11-4.70 Sewage Treatment Plant

(A) Where Required

A-1, OI, and all commercial districts.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 300 feet from a residentially used or zoned lot.

(C) Noise

Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Nash County, involved with the use.

11-4.71 Shooting Range, Indoor

(A) Where Required

GC district.

(B) Noise

The facility shall, to the maximum extent feasible, be designed to absorb sound.

11-4.72 Shooting Range, Outdoor

(A) Where Required

A-1 district.

(B) Use Separation

Separation shall be a minimum 300 feet between the range and the closest exterior property line.

(C) Access

Access shall be controlled to prevent unregulated entrance to the firing area.

(D) Security Fencing

Security fencing shall be provided to prevent an individual from crossing the property downrange.

(E) Backstops

The design of the backstop downrange shall be as approved by the National Rifle Association.

11-4.72(a) Solar Farm *(Amended 10/3/2011; 2/3/2020: A-200101)*

(A) Where Required

A-1, R-40, RC, LI, GI, PI

(B) Maximum Height

Structures shall not exceed twenty-five (25) feet in height, as measured from grade at the base of the structure to its highest point.

(C) Setbacks

Solar farm facilities and structures shall conform to the principal building setback requirements of the zoning district in which they are located. Where a solar farm facility is located on multiple lots of record in separate ownership, the building setback requirements shall apply only to the exterior perimeter of the property boundaries surrounding the facility and not to the interior property boundaries within the facility.

(D) Security Fencing

Solar farm facilities shall be enclosed by a chain-link security fence, a minimum of 6-feet in height and topped with barbed wire.

(E) Site Plan

Solar farms shall be developed in accordance with an approved site plan that includes:

- (1) the location of the solar farm facility (including the arrangement of any existing or proposed buildings, structures or panels);
- (2) the distance from any proposed solar farm facility, structure or use area to the surrounding property lines;
- (3) any existing or proposed signs, fencing, lighting, parking areas, driveways, landscaping, vegetative screening or required buffers;
- (4) horizontal and vertical (elevation) scale drawings with dimensions of proposed solar collector structures; and
- (5) noted limitations on built-upon area as required for compliance with stormwater, watershed and/or riparian buffer regulations.

(F) Safety
Solar farm facilities shall not create a visual safety hazard for passing motorists.

(G) Abandonment
Solar farm facilities shall be removed, at the owner's expense, within one hundred eighty (180) days of a determination by the Zoning Administrator that the facility is no longer being maintained in an operable state of good repair.

11-4.73 Solid Waste Disposal (Non-hazardous)

(A) Where Required

Sanitary Landfill Facilities: A-1 and GI districts.

Collection Sites, Convenience Centers, and Transfer Sites: A-1, R-40, R-30, and GI districts.

(B) Use Separation

(1) All structures, buildings, and landfilling operations associated with a sanitary landfill facility shall be located a minimum of 300 feet from a residentially used lot and a minimum of 500 feet from any existing dwelling.

(2) All structures, building and waste collection or transfer operations associated with a collection site, convenience center, or transfer site shall be located a minimum of 500 feet from any existing dwelling. (Amended 5/7/2018, A-180402)

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Access

(1) Access to the facility shall be by way of a collector or higher classified road.

(2) Entrances shall be controlled to prevent unregulated access to the facility.

(3) Access roads leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

(4) No part of access roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

- (5) A truck route plan shall be submitted showing truck routes to and from the facility. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses which will be negatively affected by truck traffic.

(E) Minimum Area

- (1) A minimum of 50 acres shall be required to establish a sanitary landfill facility.
- (2) All other types of solid waste disposal facilities such as collection sites, convenience centers, and transfer sites shall have sufficient land area to adequately accommodate the facility's operations and to sufficiently separate the facility from adjoining land uses.

(F) Siting and Design

The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.

(G) Operation

The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

11-4.74 Swim and Tennis Club

(A) Where Required

A-1, all residential, OI, all commercial, and PI districts.

(B) Minimum Area

The minimum area shall be 2 acres.

(C) Use Separation

There shall be a minimum 50-foot distance between clubhouses, swimming pools, and lighted tennis courts and any adjacent residentially used or zoned property.

(D) Operation

- (1) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
- (2) The amount of noise operated shall not disrupt the activities of the adjacent land use.

(E) Screening

Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

(F) Security Fencing

Outdoor swimming pools shall be protected by a fence in accordance with the Nash County Health Department's public swimming pool regulations.

11-4.74(a) Swim and Tennis Club, Subdivision

(A) Where Required- A-1, All residential, OI, RC, and GC

(B) Use- Swimming pools and tennis courts located in an approved subdivision on property owned and under the management of a homeowners association, and restricted for the use of residents of the subdivision and their invited guest shall meet all of the criteria in this section.

(C) Minimum Area -The minimum lot size shall be the minimum required for the zoning district that the subdivision is located in, except clustering of the court or pool lot shall not be permitted.

(D) Use Separation -There shall be a minimum 50-foot distance between clubhouses, swimming pools, and lighted tennis courts and any adjacent residentially used property or lot for which a dwelling could expect to be constructed. When adjacent to a special purpose lot, parking and structures may be constructed closer than the zoning required setback, but in no case, no closer than 5 feet to any property line.

(E) Operation - The pool and tennis court hours of operation shall be regulated by the Home Owners Association that will own and maintain the area.

(F) Screening

a. All parking lots containing ten or more parking spaces shall include a minimum 10-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way.

b. The required buffer yard shall contain evergreen shrubs, planted four feet on center, which are of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

- c. The required property line buffer yard shall comply with the planting standards for roadside buffer yards except that there shall be one canopy tree for each 60 LF of property line adjoining a residentially used lot and evergreen shrubs, planted four feet on center, which are of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.
- (G)** Security Fencing - Outdoor swimming pools shall be protected by a fence and subject to state and local public swimming pool regulations.
 - (H)** Parking
 - d. The number of required parking spaces shall be ½ spaces per number of lots under the jurisdiction of the Home Owners Association.
 - e. Parking shall be permitted in 50 per cent of the front required setback as long as the parking lot is on the same lot as the use and is located entirely within the subdivision that is being created and there are no lots adjacent to the side or front that is not part of the subdivision. Otherwise, the minimum setback for all parking must meet the zoning required front setback including the buffer.
 - f. Parking may be located in any setback that is directly adjacent to a special purpose lot, but in no case, no closer than 5 feet to any property line.
 - g. Parking shall be permitted to be located in 50 per cent of the rear required setback as long as there is no potential for development on the adjacent tract located at the common property line and there are no Water Quality Buffer requirements.

11-4.75 Swimming Pool

(A) Where Required

All residential, OI, and commercial districts. The regulations of this section shall be applicable to swimming pools located on private property which are under the control of a homeowner and the use of which is limited to the family members and invited guests.

(B) Use Separation

- (1) Pools shall be located so as to comply with the minimum setback requirement for accessory structures for the district in which it is located.
- (2) Pools which are not an integral part of the principal building shall be located a minimum of 5 feet (as measured to the edge of the pool water) from the principal building including porches and/or above grade decking.

Steps may encroach into this separation distance per the requirements of UDO Section 9-6.3 (B) (1). *(Amended 7/9/12)*

- (3) In calculating the size of a swimming pool, the gross square feet will be the total of the swimming pool and any decking, or aprons constructed for the completion of the pool.

(C) Security Fencing

Swimming pools located outdoors shall be protected by a fence in accordance with North Carolina Building Code..

11-4.76 Swine Farm

(A) Where Required

A-1 district.

(B) Conformance with County Regulations

The use shall conform to the requirements of the Nash County Intensive Livestock Regulations, as applicable.

11-4.77 Temporary Hardship Manufactured Home *(Amended 2/2/15)*

(A) Where Required

A1, all Residential, OI, and all Commercial Zoning Districts.

(B) Type

A temporary hardship manufactured home shall be a Class B manufactured home, facilitating a caregiver's provision of care for a mentally or physically impaired person. Hardships shall be considered for qualified impairments only and not for financial reasons.

(C) Location

- (1) A temporary hardship manufactured home shall be permitted as an accessory use on property owned or occupied by either the caregiver or the mentally or physically impaired person as their primary residence.
- (2) Only one temporary hardship manufactured home shall be allowed on a lot or parcel of land.
- (3) A temporary hardship manufactured home shall not be permitted on a property prior to the occupancy of the primary residence.
- (4) A temporary hardship manufactured home shall comply with all setback requirements applicable to principal dwellings in the zoning district in which it is located.

(D) Occupant

Either a mentally or physically impaired person receiving care and/or supervision from a caregiver residing in the principal dwelling, or a caregiver providing care and/or supervision for a mentally or physically impaired person residing in the principal dwelling may occupy the temporary unit.

(1) A mentally or physically impaired person shall require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.

(2) A caregiver shall be an individual 18 years of age or older.

(E) Evidence of Compliance

The permit applicant may be required to provide evidence of compliance with these requirements on an annual basis as long as the temporary hardship manufactured home remains on the property. The evidence may involve the inspection of the home by the County at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

(F) Removal

Any temporary hardship manufactured home shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary hardship manufactured home is needed for another mentally or physically impaired person in the same location, the applicant may submit a doctor's certification for that individual within the 60 day period for review and approval by the Zoning Administrator.

11-4.78(a) Temporary Commercial Construction Office *(Amended 7/12/10)*

(A) Where Required

All zoning districts.

(B) Occupants

A temporary commercial construction office shall be occupied by persons having construction or security responsibilities over a nonresidential construction site. If the office is to be staffed overnight, Nash County Emergency Services shall be advised beforehand.

(C) Time Limitation

A temporary commercial construction office shall be removed within thirty (30) days after the issuance of a final certificate of occupancy for the permanent commercial structure.

11-4.78(b) Temporary Construction/Repair Residence *(Amended 7/12/10)*

(A) Where Required

All zoning districts.

(B) Occupants

A temporary construction/repair residence shall be occupied by the persons intending to live in the on-site permanent residence once construction, repairs, or renovations are completed.

(C) Time Limitation

(1) A temporary construction/repair residence shall be removed within thirty (30) days after the issuance of a final certificate of occupancy for the permanent residence.

(2) A special use permit issued for a temporary construction/repair residence shall expire twelve (12) months after the date of issuance, except that the Board of Adjustment may renew such permit if it determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residence to complete the construction, repair, or renovation work necessary to make such building habitable.

(D) Type

A temporary construction/repair residence may be a Class B manufactured home with functioning bathroom and kitchen facilities.

11-4.78(c) Temporary Emergency Repair Residence *(Amended 7/12/10)*

(A) Where Required

All zoning districts.

(B) Occupants

A temporary emergency repair residence shall be occupied by either the displaced residents of the damaged on-site home or by a contractor performing repairs on the damaged on-site home.

(C) Time Limitation

(1) A temporary emergency repair residence shall be removed within thirty (30) days after the issuance of a final certificate of occupancy for the permanent residence.

(2) Temporary emergency repair residences are allowed for up to eighteen (18) months before a special use permit issued by the Board of Adjustment is required.

(D) Type

A temporary emergency repair residence may be a Class B manufactured home, a travel trailer, or an RV. All temporary emergency repair residences must have functioning bathroom and kitchen facilities.

**11-4.78(d) Temporary Major Construction Campground/RV Park (Amended 8/6/2018)
(Amended 12/3/2018)**

(A) Where Required

RC, GC and GI District

(B) General Requirements

- (1) Application must include a detailed site plan and supporting documents sufficient to demonstrate that all physical requirements are met.
- (2) Application must include information describing the Major Construction Project ("Project"), including but not limited to a description of the scope of the project, contact information for project construction manager or representative and construction schedule. This information shall be used to determine whether the Project qualifies for consideration of the temporary housing measure.
- (3) No campsites may be sold. No campsites may be leased for a period beyond the expiration date of the zoning, water or wastewater permits.
- (4) No campsite shall be used as a permanent place of abode nor occupied temporarily beyond the expiration of the approved permit without written consent by Nash County. Any action toward removal of wheels of a trailer or RV except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.
- (5) No campsite shall be located in a regulated flood hazard area.
- (6) Campground/RV Park must be located on a lot with direct access to a collector or higher classified road. Access shall be designed to accommodate turning movements by large vehicles with trailers, without disrupting the flow of traffic on the public roadway.
- (7) Parking and internal drives must be passable for emergency vehicles, but paving is not required.
- (8) Roadside and parking area screening is not required due to the temporary nature of the facility.

- (9) Exposed ground surfaces shall be maintained in a way that prevents soil erosion and dust.
- (10) To the greatest extent possible, campsites shall be developed to preserve their natural character. Campsites shall be level and well-drained.
- (11) Approved water and wastewater services are required and must be approved by Nash County Health Department or appropriate state agency, depending on design.
- (12) All campers/RVs must be self-contained with functioning bathroom and kitchen facilities.
- (13) No permanent structures, additions or accessory structures shall be allowed, such as porches, decks, gazebos, sheds, carports, and the like.

(C) Dimensional Requirements

- (1) Maximum number of campsites: 20 campsites, with one camper/RV per site
- (2) In no case shall any campsite be less than 1500 square feet. Campsites must provide parking for the camping vehicle plus one additional vehicle.
- (3) Campers and RVs shall be separated from each other and other structures within the park by at least 10 feet.
- (4) Campground operations shall be located at least 500 feet from any existing residence located on a separate parcel and more than 100 feet from any property line of a residentially-used or residentially-zoned property.

(D) Extension and Closure

- (1) Initial permit shall be valid for 12 months. Renewal may be approved by the Planning Department for up to one (1) 6 month extension, provided construction on the qualifying project is not complete. Extensions beyond 18 months must be approved by the Board of County Commissioners.
- (2) Campers and RVs must be removed from the property on or before the permit expiration date.
- (3) Other improvements must be removed within 30 days of the permit expiration.

11-4.79 Temporary Shelter

(A) Where Required

R-6, OI and GC districts.

(B) Time Limitation

The Board of Adjustment shall initially establish an automatic expiration date for the permit for such a facility with provisions for a maximum 6-month renewal, if necessary.

(C) Location

The facility shall be contained within the building of and operated by a government agency or nonprofit organization.

(D) Minimum Floor Area

A minimum floor space of 50 square feet shall be provided for each individual sheltered.

(E) Operation

The facility shall provide continuous on-site supervision during the hours of operation.

11-4.80 Tires and Inner Tubes Manufacture

(A) Where Required

GI district.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.

(C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.81 Truck Stop

(A) Where Required

GC district.

(B) Use Separation

All structures, buildings, and outdoor use areas shall be a minimum of 100 feet from a residentially used or zoned lot.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Dust

All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(E) Operation

- (1) No outdoor disassembly or salvaging shall be permitted.
- (2) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

(F) Access

Vehicle access to the use shall be provided only by way of a US or NC numbered highway or an industrial access road.

11-4.82 Turkey Shoots.

(A) Where Required

A-1, R-30, R-40, RC and GC districts.

(B) Setbacks

- (1) No turkey shoot shall be allowed within a required setback.
- (2) All turkey shoots shall be established with the line of fire perpendicular to and away from a road right-of-way. The line of fire is a line which passes through the firing point and bisects the target. The backstop or target area shall be located not less than 500 feet from the road right-of-way.
- (3) Sites adjacent to more than one road right-of-way must designate the higher classified road as the front, and set the line of fire perpendicular thereto. Any resultant line of fire parallel to a road must be a minimum distance of 200 feet from and parallel to the road right-of-way.
- (4) All backstops shall be constructed a minimum of 500 feet from a residence located to the rear and/or side of the backstop. The design of the backstop shall be as approved by the National Rifle Association.

(C) Parking

An off-street parking area adequate in size to park 2 cars for every backstop shall be provided.

(D) Operation

- (1) Backstops shall be constructed of a material that will allow the shot to penetrate and not pass through. It shall be of a minimum thickness of 2 feet and maintained at a height of 4 feet above the target.
- (2) The firearms used in turkey shoots shall be limited to shotguns firing shot no larger than number eight. No firearms may be used which have been altered from manufacturer's specifications.
- (3) The operators of the turkey shoot shall be responsible for maintaining adequate fire protection by notifying the local fire department as to the dates and times of the turkey shoot.
- (4) Turkey shoots shall be limited to Thursdays, Friday, Saturdays, and be in operation no later than 10:00 p.m.
- (5) Provisions for sanitation and refuse disposal must be made in accordance with health standards.

(E) Permit Review

The Zoning Administrator shall coordinate the review of a request for a turkey shoot with the Nash County Health Department, Sheriff's Department, and Emergency Management Service.

(F) Permit Limitation

The Zoning Administrator shall issue a permit not to exceed 90 days in a given year for a qualifying turkey shoot.

11-4.82(a) Utility Field Office (Government-Owned) (Amended 8/1/11)

(A) Where Required

A-1, R-40, R-30, OI, RC, GC, LI, PI

(B) Maximum Area

The maximum land area that may be used in conjunction with the Utility Field Office (Government-Owned) is 3 acres (130,680 square feet).

(C) Outside Storage

- (1) Security fencing, a minimum of 6 feet in height, shall be provided around designated outside storage areas.

- (2) Any outside storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Section 11-3.3(B).

(D) Signs

- (1) Signs related to a Utility Field Office (Government-Owned) located within agricultural or residential zoning districts shall conform to the following requirements.
 - (a) Maximum sign area: 6 square feet.
 - (b) Maximum height: 30 inches if ground mounted, signs in this category may also be mounted against the structure.
 - (c) Minimum setback from all property lines: 2 feet.
 - (d) Maximum number of signs per facility: 1 ground mounted sign and 1 wall mounted sign.
- (2) Signs related to a Utility Field Office (Government-Owned) located within commercial, industrial or office and institutional zoning districts shall conform to the sign requirements of Section 11-1.

11-4.83 Utility Related Appurtenances, Substations

(A) Where Required

All zoning districts.

(B) Dimensional Requirements

All buildings shall be considered accessory buildings or structures.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Nash County, involved with the use.

(E) Screening

Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Section 11-3.3(B).

(F) Dust

All unpaved outdoor use areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

11-4.84 Veterinary Service (Other)

(A) Where Required

OI district.

(B) Outside Storage

Pens and runs located outdoors are prohibited.

11-4.85 Water Treatment Plant

(A) Where Required

A-1 district.

(B) Use Separation

All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from a residentially used or zoned lot.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Security Fencing

Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Nash County, involved with the use.

11-4.86 Wood Products, Logging

(A) Where Required

A-1 district.

(B) Property Separation

All structures, buildings or outdoor areas used for the operation shall be a minimum of 150 feet from a residentially used or zoned lot.

(C) Noise

Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(D) Dust

All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(E) Access

A truck route plan shall be submitted showing routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other land uses which would be negatively impacted by truck traffic.

Section 11-5 Wireless Communications Facilities

Section 11-5.1 Purpose and Intent

The purpose and intent of this ordinance is to:

1. Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities.
2. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility including the allowance of only non-illuminated wireless communication facilities within residential districts. (Amended 2/4/2019)
3. Encourage the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna support structures.
4. Accommodate the growing need and demand for wireless communication services.
5. Encourage coordination between suppliers and providers of wireless communication services.
6. Respond to the policies embodied in the *Telecommunications Act of 1996* in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
7. Protect the character of the County while meeting the needs of its citizens to enjoy the benefits of wireless communications services.

8. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.
9. Consideration of and compatibility with the goals and objectives of the Nash County Land Use Land Development Plan.

Section 11-5.2 Definitions

Ancillary Structure means, for the purposes of this ordinance, any form of development associated with a wireless communications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Anti-Climbing Device means a piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

Antenna means any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

Antenna Array means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna Element means any antenna or antenna array.

Antenna Support Structure means a vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty (20) feet. Types of support structures include the following:

Guyed Structure means a style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Lattice Structure means a tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Monopole Structure means a style of freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

ASR means the Antenna Structure Registration Number as required by the FAA and FCC.

Base Station means the electronic equipment utilized by the wireless providers for the transmission and reception of radio signals.

Breakpoint Technology means the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Colocation means the practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined Antenna means an antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

Development Area means the area occupied by a wireless communications facility including areas inside or under the following: an antenna-support structure's framework, equipment cabinets, ancillary structures and access ways.

Equipment Compound means the fenced area surrounding the ground-based wireless communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Equipment Cabinet means any structure above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Feed Lines means cables used as the interconnecting media between the transmission/receiving base station and the antenna.

Flush-Mounted means any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Guyed Structure (see Antenna Support Structure)

Geographic Search Ring means an area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Handoff Candidate means a wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first “tier” surrounding the initial wireless facility.

Lattice Structure (see Antenna Support Structure)

Least Visually Obtrusive Profile means the design of a wireless communication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

Master Telecommunications Plan means a plan developed to enforce applicable development standards, state statutes, and federal regulations related to the deployment of wireless telecommunications infrastructure.

Mitigation means a modification of an existing antenna support structure to increase the height, or to improve its integrity, by replacing or removing one or several antenna support structure(s) located in proximity to a proposed new antenna support structure in order to encourage compliance with this ordinance or improve aesthetics or functionality of the overall wireless network.

Monopole Structure (see Antenna Support Structure)

Personal Wireless Service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the *Telecommunications Act of 1996*.

Public Safety Communications Equipment means all communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the County and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Radio Frequency Emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Replacement (see Mitigation)

Satellite Earth Station means a single or group of round or parabolic (or dish) antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Tower (see Antenna Support Structure)

WCF (see Wireless Communication Facility)

Wireless Communications means any personal wireless service, which includes but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations (e.g., wireless internet services and paging).

Wireless Communication Facility (WCF) means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be deemed a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, colocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: non-commercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCF's include:
Nash County UDO

Attached WCF means an antenna or antenna array that is secured to an existing building or structure other than an antenna support structure with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site. (See also Freestanding WCF.)

Concealed WCF, sometimes referred to as “Stealth” or a camouflaged facility, means a WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCF’s: 1) attached and 2) freestanding. 1) Examples of concealed attached facility include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Freestanding concealed WCF’s usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

Freestanding WCF means any unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless communication facility includes, but is not limited to the following: guyed, lattice, or monopole antenna support structures. (See also Attached WCF.)

Non-concealed WCF means a wireless communication facility that is readily identifiable as such and can be either freestanding or attached. (See also Concealed WCF.)

Section 11-5.3 Applicability

Except as provided in Section 11-5.4 (Exempt Installations), the following shall apply to the development activities including installation, construction, or modification of the following wireless communications facilities:

1. Existing antenna support structures.
2. Proposed antenna support structures.
3. Public antenna support structures.
4. Replacement of existing antenna support structures.
5. Colocation on existing antenna support structures.

6. Attached wireless communications facilities.
7. Concealed wireless communications facilities.

Section 11-5.4 Exempt Installations

The following items are exempt from the provisions of this ordinance.

1. Non-commercial, amateur radio station antennas.
2. Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts.
3. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
4. A government-owned wireless communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
5. A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the County and approved by the County; except that such facility must comply with all federal and state requirements. The wireless communications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency.
6. A temporary, commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the County, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this division up to one week after the duration of the special event.
7. Antenna support structures, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission shall be regulated in accordance with federal and other applicable local regulations.

Section 11-5.5

Development Standards - Generally.

- a. Applicability: Unless otherwise specified within this Ordinance, all development standards upon which the WCF is located shall apply. Where permitted as provided in Sections 11-5.6 (Permitted Uses by Zoning District) and 11-5.7 (Siting Alternatives Hierarchy), the following development standards apply to all new, mitigated, colocated, or combined wireless facility installations. Where any conservation, historic or scenic overlay districts or corridor plans also apply, the most restrictive standards shall govern.

- b. Equipment cabinets: Cabinets shall not be visible from public views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

- c. Fencing: All equipment compounds shall be enclosed with a wood/brick/masonry/chain link with slats fence.

- d. Buffers: The proposed WCF equipment compound shall be landscaped as outlined in Section 11-5.8 paragraph (1)(o) herein.

- e. Signage:
 - i. Attaching commercial messages for off-site and on-site advertising shall be prohibited.

 - ii. The only signage that is permitted upon a non-concealed antenna support structure, equipment cabinet, or fence shall be informational, and for the purpose of identifying the antenna support structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable).

 - iii. Where signs are otherwise permitted, a WCF may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed WCF are met.

- f. Lighting:
 - i. No WCF located within a residential zoning district shall be constructed or modified so as to require lighting. Illuminated WCFs are not desirable within residential zoning districts and the extension of an existing, non-illuminated WCF to a height requiring illumination subject to the standards of the Federal Aviation Administration (FAA) shall constitute a substantial change for permitting purposes.

- ii. Lighting on WCF's, if required by the Federal Aviation Administration (FAA), shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA to minimize the potential attraction to migratory birds. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
- g. Conformance with building codes: WCF's and their equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.
- h. Equipment compound:
 - i. Shall not be used for the storage of any excess equipment or hazardous waste (e.g., discarded batteries). No outdoor storage yards shall be allowed in a WCF equipment compound.
 - ii. Shall not be used as habitable space.
 - iii. Where feasible, one building with multiple compartments shall be constructed to serve the total number of colocation tenants. If the applicant can demonstrate that one building is not feasible or practical due to site design or other constraints, then a master site plan shall be provided to demonstrate how all-potential colocation equipment cabinets will be accommodated within the compound.
- i. Compliance with federal standards for interference protection: Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection.
- j. Compliance with ANSI standards: In order to protect the public from excessive exposure to electromagnetic radiation, the WCF applicant shall certify through a written statement that the facility meets or exceeds current American National Standards Institute (ANSI) standards as adopted by the FCC.
- k. Abandonment:
 - i. WCF's and the equipment compound shall be removed, at the owner's expense, within one hundred eighty days (180) days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided in Section 11-5.8 (Submittal Requirements), in which case the removal shall occur within one hundred eighty days (180) days of cessation of use.

- ii. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The County may extend the time for removal or reactivation up to ninety (90) additional days upon a showing of good cause. If the antenna support structure or antenna is not removed in a timely fashion, the County may give notice that it will contract for removal within sixty (60) days following written notice to the owner. Thereafter, the County may cause removal of the antenna support structure with costs being borne by the current WCF or land owner.
- iii. Upon removal of the WCF, the equipment compound and at ground foundations including two feet below ground level, the development area shall be returned to its natural state and topography and vegetation shall be consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the current WCF or land owner.

2. Attached Wireless Communication Facilities.

a. Generally.

- i. *Height:* The top of the attached WCF shall not be more than twenty (20) feet above the existing or proposed building or structure.
- ii. *Setbacks:* An attached WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of 30 inches into the setback. However no antenna or portion of any structure shall extend into any easement.
- iii. *Least visually obtrusive profile:* Feed lines and antennas shall be designed to architecturally match the façade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color and texture.

b. Attached non-concealed WCF's.

- i. *Allowable locations:* Shall only be allowed on existing nonconcealed antenna support structures and, where the applicant has an agreement with the applicable utility or other authority that exercises jurisdiction over the subject right of way, on electrical distribution poles, transmission towers, and existing ball park light poles greater than fifty (50) feet in height, subject to approval of the designated staff or other appropriate agency designee and/or the utility company.
- ii. *Equipment compound or cabinets:* Equipment compounds or cabinets for WCF's under this subsection shall be designed and located in such a manner as to not interfere with the subject right of way or its primary utilization.

3. Freestanding Wireless Communication Facilities.

a. Generally.

- i. *Determination of need:* No new or mitigated freestanding WCF shall be permitted unless the applicant demonstrates that no existing structure can reasonably accommodate the applicant's proposed use; or that use of such existing facilities would prohibit personal wireless services in the geographic search ring to be served by the proposed antenna support structure.
- ii. *Designed for concealed colocation:* All new or mitigated freestanding WCF shall be designed for maximum colocation installations.
- iii. *Designed for nonconcealed colocation:* All new or mitigated freestanding WCF's up to 80 feet in height shall be engineered and constructed to accommodate no less than two (2) antenna arrays. All WCF's between eighty-one (81) feet and one hundred (100) feet shall be engineered and constructed to accommodate no less than three (3) antenna arrays. All WCF's between one hundred and one (101) and one hundred and twenty-five (125) feet shall be engineered and constructed to accommodate no less than four (4) antenna arrays. Where permitted, all WCF's between one hundred and twenty-six (126) feet and three hundred (300) feet shall be engineered and constructed to accommodate no less than five (5) antenna arrays.
- iv. *Minimum lot size:* All new and mitigated freestanding WCF's shall meet minimum lot size standards of the underlying zoning district. unless meeting the requirements for a special purpose lot.
- v. *Least visually obtrusive profile:* New freestanding antenna support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties. New freestanding WCF's shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.
- vi. *Grading:* Grading shall be minimized and limited only to the area necessary for the new WCF as approved by the County's Planning and Development Department.
- vii. *Safety:* All support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association /Telecommunications Industries Association (EIA/TIA) document 222-F, or current standard, "Structural Standards for Steel Antenna Towers and Supporting Structures," or current standard, as amended, by a Registered North Carolina Professional Engineer.

b. Freestanding concealed WCF's.

i. *Height:*

(1) In all nonresidential zoning districts where permitted, the maximum height shall be limited to one hundred and eighty (180) feet.

(2) All height limits shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

ii. *Setbacks:* The concealed freestanding WCF and its equipment compound shall be subject to the setbacks of the zoning district and shall meet the setback requirements as described in Section 11-5.5 (3-C-iii -1).

c. Freestanding non-concealed WCF's.

i. *Antenna support structure:* Freestanding non-concealed WCF's shall be limited to either a lattice type or a monopole type antenna support structures unless the applicant successfully demonstrates that such design is not feasible to accommodate the intended uses.

ii. *Height:*

(1) The maximum height in all residential zoning districts shall be limited to one hundred ninety nine feet. The height shall include any lightning arresters or lightning rods. (Amended 2/4/2019)

(2) The maximum height in all nonresidential zoning districts shall be limited to three hundred (300) feet. The height limit shall include foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

iii. *Setbacks:* A non-concealed freestanding WCF and its equipment compound shall be subject to the regulations applicable to the underlying zoning district, except where the minimum setback distance for an antenna support structure from any property line or public right-of-way is less than the height of the proposed antenna support structure. In that case:

(1) If the antenna support structure has been constructed using breakpoint design technology as defined in Section 11-5.2 (Definitions), the minimum setback distance shall be equal to 110 percent of the distance from the

top of the structure to the breakpoint level of the structure, plus the minimum setback distance. For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum setback for that zoning district. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

- (2) If the antenna support structure has not been constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed antenna support structure.

iv . Least visually obtrusive profile:

- (1) New antenna support structures shall maintain a galvanized gray finish or other approved contextual or compatible color, except as required by federal rules or regulations.
- (2) New antenna shall be flush-mounted, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

d. Mitigation of existing freestanding WCF's.

- i. Determination of need: WCF mitigation shall accomplish a minimum of one of the following: reduce the number of WCF's, replace an existing WCF with one that is less visually obtrusive, or replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this ordinance.
- ii. Height: The height of a WCF approved for mitigation shall not exceed one hundred and fifteen (115) percent of the height of the tallest WCF that is being mitigated up to a maximum of three hundred (300) feet.
- iii. Setbacks: A new WCF approved for mitigation of an existing WCF shall not be required to meet new setback standards so long as the new WCF and its equipment compound are no closer to any property lines than the WCF and equipment compound being mitigated and is designed to meet the requirements of Section 11-5.5-3-C.iii.1. For example, if a new WCF is replacing an old one, the new one is allowed to have the same setbacks as the WCF being removed, even if the old one had nonconforming setbacks.

- iv. Buffers: The proposed WCF equipment compound shall be landscaped as outlined in Section 11-5.8 paragraph (1)(o) herein.

- v. Least visually obtrusive profile: Mitigated antenna-supporting structures shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zone lots.

4. Colocated or Combined Facilities.

a. Generally.

- i. Buffers: The proposed WCF equipment compound shall be landscaped as outlined in Section 11-5.8 paragraph (1)(o) herein.

- ii. Height: A colocated or combined WCF shall not increase the height of an existing antenna support structure by more than twenty (20) feet.

- iii. Setbacks:
 - (1) A colocated or combined WCF, its equipment compound, and any ancillary equipment shall be subject to the setbacks of the underlying zoning district.

 - (2) When a colocated or combined WCF is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.

- iv. Visibility: New antenna shall be flush-mounted onto existing WCF's, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

Section 11-5.6 Permitted Uses by Zoning District

Zoning District	Concealed Attached WCF	Non-Concealed Attached WCF	Concealed Freestanding WCF	Non-Concealed Freestanding WCF	Mitigation of Existing WCF	Antenna Element Replacement	Colocated or Combined on Existing WCF	Expanding Existing Antenna Array
A-1	S	S	S	S	P	P	P	P
RA-40	S	S	S	S	P	P	P	P
R-40	S	S	S	S	P	P	P	P
RA-30	S	S	S	S	P	P	P	P
R-30	S	S	S	S	P	P	P	P
R-20	N	N	N	N	P	P	P	P
RA-15	N	N	N	N	P	P	P	P
R-15	N	N	N	N	P	P	P	P
R-10	N	N	N	N	P	P	P	P
R-6	N	N	N	N	P	P	P	P
OI	S	S	S	S	P	P	P	P
RC	S	S	S	S	P	P	P	P
GC	S	S	S	S	P	P	P	P
LI	S	S	S	S	P	P	P	P
GI	S	S	S	S	P	P	P	P
PI	S	S	S	S	P	P	P	P

P – Permitted per 11.5 S – Special Use Permit N- Not Permitted

Section 11-5.7 Siting Alternatives Hierarchy

Siting of a wireless communications facility (WCF) (as herein defined) shall be in accordance with the following siting alternatives hierarchy:

1. Concealed Attached Wireless Communications Facility
 - a. On County-owned property so designated as COP
 - b. On other publicly-owned property
 - c. On privately-owned property

2. Collocated or Combined on Existing Antenna Support Structure Facility, Utility Pole, Distribution Tower or Light Stanchions
 - a. On County-owned property so designated as COP
 - b. On other publicly-owned property
 - c. On privately-owned property
3. Freestanding Concealed Wireless Communications Facility
 - a. On County-owned property so designated as COP
 - b. On other publicly-owned property
 - c. On privately-owned property
 - d. In public rights-of-way
4. Non-concealed Freestanding Wireless Communications Facility
 - a. On County-owned property so designated as COP
 - b. On other publicly-owned property
 - c. On privately-owned property

Concealed WCF's proposed on designated County property shall be allowed as Permitted.

For attached, collocated, or combined WCF, the order of ranking preference, highest to lowest, shall be from 1a to 1c and 2a to 2c. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in Section 11-5.8.1 (General Submittal Requirements) including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed wireless communications facility.

Where a freestanding WCF is permitted the order of ranking preference from highest to lowest shall be from 3a to 3d and 4a to 4c. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in Sections 11-5.8.1 (General Submittal Requirements) and 11-5.8.3 (Freestanding Concealed or Non-concealed WCF's, and Mitigation of WCF's) and demonstrate higher ranked options are not technically feasible, practical, or justified given the location of the proposed wireless communications facility, and the existing land uses of the subject and surrounding properties within 300 feet of the subject property.

This section shall not be interpreted to require applicants to locate on publicly-owned sites when lease negotiation processes are prohibitively lengthy or expensive relative to those of the private sector. The applicant is considered justified in selecting a lower-ranked privately-owned property option if the local government fails to approve a memorandum of agreement or letter of intent to lease a specified publicly-owned site within ninety (90) days of the application date, or if it is demonstrated that the proposed lease rate for the specified public-owned site significantly exceeds the market rate for comparable privately-owned sites.

Section 11-5.8 Submittal Requirements

In addition to the submittal requirements of any subsection below, each applicant shall submit a completed application form and required application fees as part of its submittal package.

1. General Submittal Requirements.

- a. An affidavit by a radio frequency engineer demonstrating compliance with Section 11-5.7 (Siting Alternatives Hierarchy). If a lower ranking alternative is proposed, the affidavit must address why higher ranked options are not technically feasible, practical, or justified given the location of the proposed wireless communications facility.
- b. Four (4) sets (24"×36") of signed and sealed site plans, including antenna support structure elevations, and landscape plans if required, and four (4) letter size copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities. If a Special Use Permit is required, ten (10) copies of the site plan are required.
- c. Proof that a property and/or antenna support structure owner's agent has appropriate authorization to act upon the owner's behalf (if applicable).
- d. A signed statement from a qualified person, together with their qualifications, shall be included that certifies radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other existing facilities located on or immediately adjacent to the proposed facility complies with FCC standards.

- e. Proposed maximum height of the proposed WCF, including individual measurement of the base, the antenna support structure, less the lightning rod.
- f. Photo-simulated post construction renderings of the completed proposed antenna support structure, equipment cabinets, landscaping, and ancillary structures from a minimum of four (4) locations, to include renderings from the vantage point of any adjacent roadways and occupied or proposed non-residential or residential structures.
- g. If the proposed WCF is subject to FAA regulation, then prior to issuance of a building permit, a copy of all material submitted by the applicant to the FAA and any such approval if available.
- h. If the United States Fish and Wildlife Service require the applicant to submit any information to them concerning the proposed wireless communications facility, the applicant shall also furnish a copy of any material submitted to the United States Fish and Wildlife Service to the County as part of the application package.
- i. Interference with public safety communications.

In order to facilitate the regulation, placement, and construction of WCF's, and to ensure that all parties comply to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of a WCF or applicant for a WCF shall agree in a written statement to the following:

- i. Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.
- ii. Certification from the applicant that it complies with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- iii. In the case of an application for colocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the County's public safety communications equipment and will implement appropriate technical measures, as described in Section 11-5.8 (5) (Antenna Element Replacements), to attempt to prevent such interference.

- iv. Whenever the County has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCF's, the following steps shall be taken:
 - (1) The County shall provide notification to all WCF service providers operating in the jurisdiction of possible interference with the public safety communications equipment. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the County and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.
 - (2) If any WCF owner fails to cooperate with the County in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the County public safety communications equipment, the owner who fails to cooperate and/or the owner of the WCF which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the County for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the jurisdiction to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within twenty-four (24) hours of the County's notification.
- j. If requested, materials detailing the locations of existing wireless communications facilities to which the proposed antenna will be a handoff candidate, including latitude and longitude of the proposed and existing antenna.
- k. A map showing the designated search ring.
- l. For all applications *except* colocations, a radio frequency analysis indicating the coverage of existing wireless communications sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed network design is intended to improve coverage or capacity potential or reduce interference and the proposed facility cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, colocation, or new antenna support structure.
- m. Compliance letter from the State Historic Preservation Office (SHPO).
- n. Completed checklist-demonstrating compliance with the National Environmental Policy Act (NEPA).

o. Landscaping Requirements.

- i. Landscaping shall be provided in accordance with Section 11-3.3 (B) Screening of Adjoining Incompatible Land Uses – Industrial and Commercial Uses.

3. Attached, Colocated, and Combined WCF's.

- a. Certification furnished by a Registered Professional Engineer licensed in the State of North Carolina that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.
- b. A signed statement from the antenna support structure owner or owner's agent agreeing to allow the colocation of other wireless equipment on the proposed antenna support structure, if the structure is designed or capable of additional wireless equipment.
- c. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

4. Freestanding Concealed or Non-concealed WCF's, and Mitigation of WCF's.

- a. A report and supporting technical data demonstrating that all antenna attachments and colocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities such as utility distribution poles and transmission towers and other elevated structures are not acceptable alternatives to a new freestanding WCF. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless communications facility could accommodate the applicant's proposed facility shall demonstrate any of the following:
- i. No existing wireless communications facilities located within the geographic search ring meet the applicant's engineering requirements, and why.
- ii. Existing wireless communications facilities are not of sufficient height to reasonably meet the applicant's engineering requirements, and cannot be increased in height.

- iii. Existing wireless communications facilities do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
 - iv. Other limiting factors that render existing wireless communications facilities unsuitable.
- b. Technical data included in the report shall include certification by a Registered Professional Engineer licensed in the State of North Carolina or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed WCF, and accompanying maps and calculations demonstrating (using the hierarchy in Section 11-5.7) the need for the proposed WCF.
- c. A statement that the proposed facility meets the siting alternatives hierarchy, or alternatively, that concealment technology is unsuitable for the proposed facility. Costs of concealment technology that exceed facility development costs shall not be presumed to render the technology unsuitable.
- d. The applicant shall provide simulated photographic evidence of the proposed WCF's appearance from four (4) vantage points including the facility types the applicant has considered and the impact on adjacent properties including:
- i. Overall height
 - ii. Configuration
 - iii. Physical location
 - iv. Mass and scale
 - v. Materials and color
 - vi. Illumination
 - vii. Architectural design

If applicable, the applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent residential zoning districts.

- e. Certification furnished by a Registered Professional Engineer licensed in the State of North Carolina, that the WCF has sufficient structural integrity to accommodate the required and a proposed number of colocations.
- f. A written statement by a Registered Professional Engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility, if applicable, identification of the intended service providers of the WCF.

5. Antenna Element Replacements.

- a. Any repair or replacement of an existing antenna or antenna array with another of like model, type, and number, and which will not alter the structural integrity of the support structure, shall be exempted from further review provided that a notarized certification shall be submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure, and that any changes will not affect electrical specifications.
- b. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical or electrical specifications of the WCF, but does not increase the number and/or size of feed lines to the existing WCF, the applicant must, prior to making such modifications, submit the following:
 - i. A written statement setting forth the reasons for the modification.
 - ii. A description of the proposed modifications to the WCF, including modifications to antenna element design, type and number, as well as any additional feed lines from the base of the WCF to such antenna elements.
 - iii. A signed statement from a qualified person, together with their qualifications, shall be included representing the antenna support structure's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
 - iv. A stamped or sealed structural analysis of the existing WCF prepared by a Registered Professional Engineer licensed by the State of North Carolina indicating that the existing antenna support structure as well as all existing and proposed appurtenances meets North Carolina Building Code requirements (including wind loading) for the antenna support structure.

- c. Any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical specifications in a manner that increases the number and/or size of feed lines to the existing WCF will be treated as a new collocation.

Section 11-5.9 Approval Process

All approvals are subject to the supplemental review process and/or those outlined in the Section 4-7 (Special Use Permit). Additionally, in accordance with the table in Section 11-5.6 (Permitted Uses by Zoning District), the following approval process shall apply:

1. New WCF's and Antenna Element Replacements.

- a. Any application submitted pursuant to this section shall be reviewed by County staff for completeness. If any required item fails to be submitted, the application shall be deemed incomplete. Staff shall advise an applicant in writing within twenty (20) business days after submittal of an application regarding the completeness of the application. If the application is incomplete, such notice shall set forth the missing items or deficiencies in the application, which the applicant must correct and/or submit in order for the application to be deemed complete.
- b. Within twenty (20) days of receiving a timely response from an interested potential co-applicant, the applicant shall inform the respondent and the County in writing as to whether or not the potential collocation or combining is acceptable and under what conditions. If the collocation or combining is not acceptable, then the applicant must provide the respondent and the County written justification as to why the collocation or combining is not feasible.

2. Supplemental Review.

The County reserves the right to require a supplemental review for any type of WCF, as determined necessary, subject to the following:

- a. Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the County may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees.
- b. The applicant shall submit as published in the County's current fee schedule.

- c. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
- d. The supplemental review may address any or all of the following:
 - i. The accuracy and completeness of the application and accompanying documentation.
 - ii. The applicability of analysis techniques and methodologies.
 - iii. The validity of conclusions reached.
 - iv. Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in this Ordinance.
 - v. Other items deemed by the County to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these codes.

Section 11-5.10 Publicly-Owned Property

1. Pursuant to applicable law, the County may contract with a third party to administer publicly owned sites for purposes of providing wireless telecommunications services, consistent with the terms of these regulations. Except as specifically provided herein, the terms of these regulations, and the requirements established thereby, shall be applicable to all WCF's to be developed or colocated on County-owned sites.
2. If an applicant requests a permit to develop a site on County-owned property, the permit granted hereunder shall not become effective until the applicant and the jurisdiction have executed a written agreement or lease setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted.
3. No permit granted under this section shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of telecommunications services or any other purpose.
4. No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the grant. Further, no permit shall be construed as a conveyance of a title interest in the property.

ARTICLE XII

ENVIRONMENTAL AND SPECIAL PURPOSE REGULATIONS

12-1 WATERSHED PROTECTION OVERLAY DISTRICT REGULATIONS

The watershed protection overlay districts, as described in Section 9-1.7(C), are designed to protect designated public water supply watershed from activities which could degrade water quality. These separate watershed protection overlay districts have been established: WPIII-BW, WPIV-CA, and WPIV-PA. (Amended 4/1/2019, A-190301)

12-1.1 General Requirements

- (A) The regulations delineated in Section 12-1 are intended to comply with the requirements of NCGS 143-214.5. For property located within a WP-IVCA or WP-IVPA Overlay District, the provisions of Section 12-1 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.
- (B) No structure or land use shall be allowed within the watershed protection overlay districts which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

12-1.2 WPIII-BW Supplemental Standards

Within a WPIII-BW Overlay District, the following specific standards shall apply:

(A) Density

Single-family residential uses shall not exceed a maximum density of two dwelling units per acre, as defined on a project by project basis. No single-family residential lot shall be less than 20,000 square feet in area, excluding roadway right-of-way, unless located within an approved cluster development in accordance with Section 12-1.6. (Amended 4/1/2019, A-190301)

(B) Built-Upon Area

All residential development, other than single-family development, and all nonresidential development shall be allowed at a maximum 24% built-upon area. In addition, new development and expansions to existing development may occupy 10% of the balance of the watershed area with up to 70% built-

upon area when approved in accordance with Section 12-1.11. For purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(C) Permitted Uses

Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WPIII-BW. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WPIII-BW except for the following:

- (1) discharging landfills.

12-1.3 WPIV-CA Supplemental Standards

(A) Applicability

The provisions of Section 12-1.3 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.

(B) Density

Single-family residential uses shall not exceed a maximum density of two dwelling units per acre, as defined on a project by project basis. No single-family residential lot shall be less than 20,000 square feet in area, excluding roadway right-of-way, unless located within an approved cluster development in accordance with Section 12-1.6.

(C) Built-Upon Area

All residential development, other than single-family development, and all nonresidential development shall be allowed a 24% built-upon area. For purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with Section 12-1.12.

(D) Permitted Uses

Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WPIV-CA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WPIV-CA except for the following:

- (1) sites for land application of residuals or petroleum contaminated soils; and
- (2) new landfills.

12-1.4 WPIV-PA Supplemental Standards

(A) Applicability

The provisions of Section 12-1.4 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.

(B) Density

Single-family residential uses shall not exceed a maximum density of two dwelling units per acre or three dwelling units per acre for projects without a curb and gutter road system, as defined on a project by project basis. No single-family residential lot shall be less than 20,000 square feet or 14,500 square feet for projects without a curb and gutter road system, unless located within an approved cluster development in accordance with Section 12-1.6.

(C) Built-Upon Area

All residential development, other than single-family development, and all nonresidential development shall be allowed at a maximum 24% built-upon area or 36% built-upon area for projects without a curb and gutter street system. For purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with Section 12-1.12.

(D) Permitted Uses

Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WPIV-PA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WPIV-PA.

12-1.5 Best Management Practices

(A) General

The construction of new roads and bridges and nonresidential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices to minimize water quality impacts. To the extent practicable, the construction of new roads in the WPIV-CA Overlay District should be avoided. The NC Department of Transportation shall use best management practices as outlined

in its document entitled, Best Management Practices for the Protection of Surface Waters.

(B) Agricultural Uses

Agricultural uses are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624).

(C) Forestry Operations

Forestry operations, if allowed in the underlying general zoning district, are subject to the provisions of the Forest Practice Guidelines Related to Water Quality (15 ANCAC 11.0101-.0209).

(D) Stormwater Best Management Practices Manual

The North Carolina Department of Environmental and Natural Resources, Stormwater Best Management Practices Manual, 2007, and all amendments thereto, hereafter referred to as the "NC BMP Manual", is hereby adopted by reference as fully as though set forth herein and shall be used to design required BMPs. If any standard, requirement, or procedure for BMP design as set forth in the NC BMP Manual is in conflict with any standard, requirement, or procedure set forth in this ordinance then the most stringent shall prevail. A copy of the Manual shall be available for public review in the Nash County Planning and Development Office.

12-1.6 Cluster Development

(A) Cluster Development

Cluster development is allowed in all watershed protection overlay districts provided that the following conditions are met:

- (1) Minimum lot sizes may be reduced for single-family cluster development projects in accordance with the provisions of Section 9-4.1(B); however, the total number of lots shall not exceed the maximum number of lots allowed for single-family detached developments in Sections 12-1.2(A), 12-1.3(B), and 12-1.4(B). Density or built-upon area requirements for the project shall not exceed that allowed in Sections 12-1.2(B), 12-1.3(C), and 12-1.4(C).
- (2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (3) The remainder of the tract not built upon shall remain in a vegetated or natural state. The title to the reserved open space area shall be conveyed to an incorporated homeowners or property owners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not

incorporated, a maintenance agreement shall be filed with the property deeds.

12-1.7 Buffer Areas

- (A) A minimum thirty-foot vegetative buffer for new development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. A minimum one hundred foot vegetative buffer is required for all new development activities that utilize the high density development option authorized by Section 12-1.12. Desirable artificial streambank or shoreline stabilization is permitted.
- (B) No new development is allowed in the buffer except for water-dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious areas, and public projects such as road crossings and greenways where no practicable alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices. Desirable artificial streambank or shoreline stabilization is permitted.
- (C) Whenever the buffer requirements of other portions of this Ordinance are in conflict with the provisions of this Section, the more stringent requirement shall apply.

12-1.8 Existing Development

- (A) Existing development, as defined in Section 2-4, is not subject to the provisions of the watershed overlay district requirements. Redevelopment of and expansion to existing development is allowed as provided for herein.
- (B) Redevelopment of existing development is allowed if the rebuilding activity does not result in a net increase in built-upon area or if the redevelopment activity includes equal or greater stormwater control than the previous development. However, existing single-family residential development may be redeveloped without any restrictions.
- (C) Expansions to uses and structures classified as existing development must meet the requirements of this Section provided, however, that the built-upon area of the existing development is not required to be included in the built-upon area calculations. However, existing single-family residential development may be expanded without any restrictions.

12-1.9 Exceptions

If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this Ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from the provisions of Section 12-1 if it is developed for one single-family

detached residence and if it is exempt from the provisions of this Ordinance per Section 10-1.1.

12-1.10 Variances

- (A) Minor Variances. Minor variances, as defined in Section 2-4, to the provisions of Section 12-1 may be approved by the Planning Board pursuant to the variance procedures outlined for the Board of Adjustment in Article VII, specifically Sections 7-2.1, Section 7-2.3, and Sections 7-4 through 7-12. The Zoning Administrator shall keep a record of all such minor variances and shall submit, for each calendar year, the record to the Water Quality Section, of the NC Division of Environmental Management on or before January 1st of the following year. The record shall include a description of each project receiving a variance and the reasons for granting the variance.
- (B) Major Variances. Major variances, as defined in Section 2-4, shall be reviewed by the Planning Board pursuant to the procedures outlined in this Article and a recommendation prepared for submission to the NC Environmental Management Commission (EMC). The record of a major variance review shall include the following items:
 - (1) the variance application;
 - (2) the hearing notices;
 - (3) the evidence presented;
 - (4) motions, offers of proof, objections to evidence, and rulings on them;
 - (5) proposed findings and exceptions;
 - (6) the Planning Board's recommendation, including all conditions proposed to be added to the permit.

Upon receiving the record of a major variance review from the Planning Board, the EMC shall (i) review the variance request, (ii) prepare a final decision on the request, and (iii) forward its decision to the Planning Board. If the EMC approves the variance as proposed, the Planning Board shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Planning Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance. If the EMC denies the variance request, the Planning Board shall prepare a final decision denying the variance.

12-1.11 10%/70% Development Option

- (A) Within the WPIII-BW Overlay District, the Board of Commissioners may, on 10% of the total land area of the WPIII-BW Overlay District, authorize nonresidential development to be constructed with a maximum 70% built-upon area provided that the stormwater control structures specified in Section 12-1.13 are utilized. Such additional nonresidential intensity allocation authorized by this Section must comply with all other applicable provisions of Section 12-1.
- (B) Development projects authorized under this Section shall, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, provide engineered stormwater controls in accordance with

Section 12-1.13, and incorporate Best Management Practices to minimize water quality impacts.

- (C) The Planning Director shall keep records of the County's use of the 10%/70% option authorized by this Section. Records for each watershed shall include the total acres of the WPIII-BW watershed, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use, and stormwater management plan, if applicable.

12-1.12 High Density Development Option

- (A) Upon approval by the Board of County Commissioners, a high density option may be authorized provided that the requirements of this subsection are met.
 - (1) Within the WPIV-CA Overlay District, new development may exceed the density and built-upon area standards set forth in Sections 12-1.3 (B) and (C) provided that (a) engineered stormwater controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 50%. Within the WPIV-PA Overlay District, new development may exceed the density and built-upon area standards set forth in Sections 12-1.4 (B) and (C) provided that (a) engineered stormwater controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 70%.
 - (2) The engineered stormwater controls required in subsection 1 shall be designed in accordance with Section 12-1.13.
 - (3) Financial assurance for the purpose of maintenance, repairs, or reconstruction of stormwater control structures shall be provided pursuant to Section 12-1.14.
 - (4) Stormwater control structures shall be maintained and inspected in accordance with the provisions of Section 12-1.15.
 - (5) An occupancy permit shall not be issued for any building within the permitted development until the Board of Commissioners has approved the stormwater control structure, as provided in Section 4-8.
 - (6) All site plans for developments proposing to utilize the high density option must be reviewed and approved by the Board of Commissioners.

12-1.13 Stormwater Control Structures

- (A) Developments located within watershed overlay districts that have been approved for the high density development option authorized in Section 12-1.12 and developments authorized under the 10%/70% option in accordance with Section 12-1.11 shall comply with the requirements of this Section.
- (B) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system

required; these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C)-3(7).

- (C) All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in subsection (D), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
- (1) Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage runoff from a one inch rainfall from the site above the permanent pool;
 - (2) The designed runoff storage volume shall be above the permanent pool;
 - (3) The discharge rate from these systems following the one inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days;
 - (4) The mean permanent pool depth shall be a minimum of three feet;
 - (5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features; and
 - (6) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a 10-year, 24-hour storm with a 10-year, 1-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- (D) Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be use. The design criteria for approval shall be 85 percent average annual removal of Total Suspended Solids. Also, the discharge rate shall meet one of the following criteria:
- (1) the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or
 - (2) the post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.

- (E) In addition to the vegetative filters required in subsection (C)(6) above, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 12-1.14(C).
- (F) A description of the area containing the stormwater control structure shall be prepared and filed, consistent with Section 12-1.15(I) and (J), as a separate deed with the County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (G) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

12-1.14 Financial Security for Stormwater Control Structures

- (A) All new stormwater control structures authorized in Section 12-1.13(A) shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structures.
- (B) Financial assurance shall be in the form of the following:
 - (1) Surety Performance Bond or Other Security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to Nash County or placed in escrow with a financial institution designated as an official depository of Nash County. The bond or other instrument shall be in an amount equal to 1.5 times the total cost of the stormwater control structure, as estimated by Nash County and approved by the Board of Commissioners. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.
 - (2) Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 12-1.15(K)(1), the permit applicant shall deposit with Nash County either cash or other instrument approved by the Board of Commissioners that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a

ten-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 12-1.15(A). The amount shall be computed by estimating the maintenance cost for twenty-five years and multiplying this amount by two fifths or 0.4.

- (C) The permit applicant shall enter into a binding operation and maintenance agreement between Nash County and all interests in the development. Said agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the Nash County Register of Deeds by the Planning Director.
- (D) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as spelled out in the performance bond or other security, the Board of Commissioners may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Board of Commissioners shall return any funds not spent in completing the improvements to the owning entity.
- (E) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the Board of Commissioners shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The Board of Commissioners shall not return any of the deposited cash funds.

12-1.15 Maintenance and Inspection of Stormwater Control Structures

- (A) An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure authorized in Section 12-1.11 or Section 12-1.12, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.

- (C) Except for general landscaping and grounds management, the owning entity shall notify the Planning Director prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Planning Director shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements. The Planning Director may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) designated by the Board of Commissioners.
- (D) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the Board of Commissioners. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) and submitted to and reviewed by the Planning Director prior to consideration by the Board of Commissioners.
 - (1) If the Board of Commissioners approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the office of the Planning Director.
 - (2) If the Board of Commissioners disapproves the changes, the proposal may be revised and resubmitted to the Board of Commissioners as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (E) If the Board of Commissioners finds that the operation and maintenance plan or manual is inadequate for any reason, the Board of Commissioners shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the Nash County Register of Deeds, the office of the Planning Director and the owning entity.
- (F) Processing and inspection fees shall be submitted in the form of a check or money order made payable to Nash County. Applications shall be returned if not accompanied by the required fee.
- (G) A permit and inspection fee schedule, as approved by the Board of Commissioners, shall be posted in the office of the Planning Director.
- (H) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with subsection (C). above, except in the case when a similar fee has been paid within the last 60 days.
- (I) The stormwater control structure shall be inspected by an engineer or landscape architect designated by the Board of Commissioners, after the owning entity notifies the County that all work has been completed. At this inspection, the owning entity shall provide:

- (1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Nash County Register of Deeds;
 - (2) A certification sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.
- (J) The County's consulting engineer or landscape architect shall present the materials submitted by the developer and the inspection report and recommendations to the Board of Commissioners at its next regularly scheduled meeting.
- (1) If the Board of Commissioners approves the inspection report and accepts the certification, deed and easements, the Board shall file the deed and easements with the Nash County Register of Deeds, release up to seventy-five percent of the value of the performance bond or other security and issue an occupancy permit for the stormwater control structure.
 - (2) If deficiencies are found, the Board of Commissioners shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board.
- (K) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the Board of Commissioners to release the remaining value of the performance bond or other security. Upon receipt of said petition, the County's consulting engineer or landscape architect shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The consulting engineer or landscape architect shall present the petition, inspection report and recommendations to the Board of Commissioners.
- (1) If the Board of Commissioners approves the report and accepts the petition, the developer shall deposit with the County a cash amount equal to that described in Section 12-1.14(B)(2) after which, the Board of Commissioners shall release the performance bond or other security.
 - (2) If the Board of Commissioners does not accept the report and rejects the petition, the Board of Commissioners shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release the performance bond or other security.
- (L) All stormwater control structures shall be inspected by the County at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.

- (M) In the event that the Planning Director discovers the need for corrective action or improvements, the Planning Director shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Planning Director shall inspect and approve the completed improvements. The Planning Director may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) designated by the Board of Commissioners.

ARTICLE XII

12-2 FLOOD HAZARD DISTRICT OVERLAY REQUIREMENTS

The Flood Hazard Overlay District (FHO), as established in Section 9-1.7(A), is designed for the purpose of protecting people and property from the hazards of flooding in accordance with the authority provided in NCGS 153A-121.

Basis For Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) dated July 7, 2014 for Nash County, North Carolina and associated Digital Flood Insurance Rate map (DFIRM) panels, including any digital data developed as part of the Flood Insurance Study, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DIFRM panels that do not change flood hazard data within the jurisdictional authority of Nash County are also adopted by reference and declared a part of this ordinance. (Amended 3/10/2014, A-140201) (Amended 5/6/2013, A-130401) (3/11/2013, A-201302)

12-2.1 Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used throughout Section 12-2.

(A) Accessory Structure (Appurtenant Structure)

A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

(B) Addition (to an existing building)

An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a firewall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

(C) Appeal

A request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

(D) Area of Shallow Flooding

A designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

(E) Area of Special Flood Hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. As used in this Ordinance, the term refers to that area designated as subject to flood from the one hundred year flood on the "Flood Insurance Rate Map" prepared by the Federal Emergency Management Agency, a copy of which is on file in the administrator's office. This area shall comprise the Flood Hazard Overlay District established in Section 9-1.7(A).

(F) Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

(G) Basement

That lowest level or story which has its floor subgrade on all sides.

(H) Base Flood Elevation (BFE)

A determination as published in the flood Insurance Study of the water surface elevations of the base flood. This elevation combined with the freeboard creates the regulatory Flood protection elevation

(I) Breakaway Wall

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the

supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires an architect's or professional engineer's certificate.

(J) Building

Any structure built for support, shelter, or enclosure for any occupancy or storage.

(K) Chemical Storage Facility

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

(L) Development

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(M) Disposal

Defined as in NCGS 130A-290(a)(6).

(N) Elevated Building

A non-basement building that has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(O) Encroachment

The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

(P) Existing Manufactured Home Park or Manufactured Home Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

(Q) Flood Boundary and Floodway Map (FBFM)

An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

(R) Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- the overflow of inland or tidal waters; and,
- the unusual and rapid accumulation of runoff of surface waters from any source.

(S) Flood Hazard Boundary Map (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

(T) Flood Insurance

The insurance coverage provided under the National Flood Insurance Program.

(U) Flood Insurance Rate Map (FIRM)

An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

(V) Flood Insurance Study (FIS)

An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

(W) Floodplain or Flood Prone Area

Any land area susceptible to being inundated by water from any source.

(W.1) Floodplain Development Permit:

Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

(X) Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

(Y) Floodplain Regulations

This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power, which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

(Z) Floodproofing

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

(AA) Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are located within areas of special flood hazard as defined herein.

(BB) Flood Zone

A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(CC) Floor

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood-frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(DD) Freeboard

The additional amount of height added to the Base Flood Elevation (BFE) to account for uncertainties in the determination of flood elevations. See also...Regulatory Flood Protection Elevation.

(EE) Functionally Dependent Facility

A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

(FF) Habitable Floor

Any floor usable for living purposes which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

(GG) Highest Adjacent Grade

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

(HH) Historic Structure

Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic place in communities with historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.

(II) Levee

A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(JJ) Levee System

A flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(KK) Lowest Adjacent Grade (LAG)

The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

(LL) Lowest Floor

Lowest Floor means the sub floor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(MM) Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

(NN) Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(OO) Market Value

The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

(PP) Mean Sea Level

For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

(QQ) National Geodetic Vertical Datum (NGVD)

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(RR) New Construction

Structures for which the 'start of construction' commenced on or after the effective date of this Ordinance.

(SS) New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 10, 1989.

(TT) Non-Encroachment Area

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

(UU) Obstruction

Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

(VV) Post-FIRM

Construction or other development that started on or after January 20, 1982 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

(WW) Pre-FIRM

Construction or other development that started before January 20, 1982 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

(XX) Public Safety and/or Nuisance

Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

(YY) Recreational Vehicle

A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(ZZ) Reference Level

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of such building. Within Special Flood Hazard Areas designated as zones A1-A30, AE,

A, A99, AO, or AH, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

(AAA) Regulatory Flood Protection Elevation

The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 1 foot of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to 2 feet above the highest adjacent grade.

(BBB) Remedy a Violation

To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

(CCC) Repetitive Loss

Flood related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

(DDD) Retrofitting

Measures, such as floodproofing, elevation, construction small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

(EEE) Riverine

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(FFF) Salvage Yard, Scrap Processing

Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any residential or nonresidential land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

(GGG) Solid Waste Disposal Facility

Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

(HHH) Solid Waste Disposal Site

Defined as in NCGS 130A-290(a)(36).

(III) Start of Construction

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)]. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

(JJJ) Structure

A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(KKK) Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event, on the average equal or exceeds 25% of the market value of the structure before the damage occurred.

(LLL) Substantial Improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(MMM) Substantially Improved Existing Manufactured Home Park or Subdivision

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

(NNN) Variance

A grant of relief to a person from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

(OOO) Violation

The failure of a structure or other development to be fully compliant with the county's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

(PPP) Watercourse

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(QQQ) Water Surface Elevation (WSE)

The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

12-2.2 Artificial Obstructions Within Floodways Prohibited

- (A) Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential.

- (B) No artificial obstruction may be located within any floodway.
- (C) For purposes of this Section, an artificial obstruction is any obstruction, other than a natural obstruction, that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood carrying capacity of a stream. A natural obstruction includes any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a non-human cause.
- (D) The following standards shall apply to any permissible use or any other use allowed by variance (in accordance with Section 7-2.2):
 - (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
 - (2) If subsection (D)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 12-2.4.
 - (3) No manufactured home shall be permitted nor relocated in a floodway.

12-2.3 RESERVED

12-2.4 Construction Within Areas of Special Flood Hazard Restricted

- (A) No new residential building may be constructed and no substantial improvement of a residential building may take place within any area of special flood hazard except in accordance with subsection (D) or (E) of this Section.
- (B) No new nonresidential building, with the exception of public utility structures, may be constructed and no substantial improvements of a nonresidential building may take place within any area of special flood hazard except in accordance with subsection (D) or (E) of this Section.
- (C) The following general standards shall apply to any permissible use, any public utility structure and any use allowed by variance (in accordance with Section 7-2.2) in an area of special flood hazard:
 - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliance (i.e., washers, dryers, refrigerator, etc.), hot water heaters, and electric outlets/switches.

(6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this Ordinance shall meet the requirements of 'new construction' as contained in this Ordinance; and

(10) Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this Ordinance. Provided, however, nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.

(D) In all areas of special flood hazard where base flood elevation data has been provided, the following specific standards shall apply to any permissible use and any use allowed by variance (in accordance with Section 7-2.2):

(1) Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.

(2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated one foot above the level of the base flood elevation. Structures located in A-zones may be flood-proofed in lieu of elevation provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water,

using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 12-2.7(A)(5).

(3) Manufactured Homes

(a) Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred 'substantial damage' as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (a) above of this Ordinance must be elevated so that the lowest floor of the manufactured home is elevated one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(c) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143.143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Zoning Administrator and the local Emergency Management Coordinator.

(4) Recreational Vehicles

A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

(a) be on site for fewer than 180 consecutive days;

- (b) be fully licensed and ready for highway use; or
- (c) meet the requirements of Sections 12-2.4(C) and (D)(3) and Section 12-2.7.

(5) Elevated Buildings

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(iv) Foundation enclosures: Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.

(v) If a building has more than one enclosed area, each area must have openings to allow floodwater to enter directly.

(b) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(6) Temporary Structures. Prior to the issuance of a development permit, for a temporary structure, the following requirements must be met:

(a) All applicants must submit to the Zoning Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

(i) the name, address and phone number of the individual responsible for the removal of the temporary structure;

(ii) the time frame prior to the event at which a structure will be removed;

(iii) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and

(iv) designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(v) a specified time period for which the temporary use will be permitted. Time specified should be minimal with total time on site not to exceed one year.

(b) The above information shall be submitted in writing to the Zoning Administrator for review and written approval.

(7) Accessory Structure. When accessory structures (sheds, detached garages, etc.) with a footprint less than 150 square feet that satisfies the criteria outlined, does not require an elevation or floodproofing certificate. Elevation or floodproofing certification is required for all other accessory structures.

(a) Accessory structures shall not be used for human habitation;

(b) Accessory structures shall be designed to have low flood damage potential;

(c) Accessory structures shall be firmly anchored in accordance with Section 12-2.4(C)(1); and

(d) Service facilities such as electrical and heating equipment shall be elevated in accordance with Section 12-2.4(C)(5).

(e) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(E) Located within the areas of special flood hazard are small streams where no base flood data has been provided or where no floodways have been identified.

The following provisions apply within such areas to any permissible use or any use allowed by variance (in accordance with Section 7-2.2;

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to five times the width of the stream at the top of bank or twenty feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection (E)(1) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Section 12-2.4 and shall be elevated or flood-proofed in accordance with elevations established in accordance with Section 12-2.7(A)(5). When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

(F) Whenever any portion of an area of special flood hazard outside of the floodway is filled in with fill dirt, slopes shall be adequately stabilized to withstand the erosive force of the base flood.

(G) (a) There shall be no new solid waste disposal facilities, hazardous waste management facilities, salvage yards, or chemical storage facilities, and no extension of any solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities within Special Flood Hazard Areas. This standard is specifically not subject to the variance procedures of this ordinance.

(b) All chemical or fuel storage tanks located within any floodplain shall be either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(H) Additions or improvements:
Additions and or improvements to pre-FIRM structures whereas the addition and or improvements in combination with any interior modification to the existing structure are not a substantial improvement, the addition and or improvements must be designed to minimize flood damages and must not be any more non conforming than the existing structures. Additions to post FIRM structures, with no modifications to the existing structure, shall require only the addition to comply with the standards for new construction. Additions, and or improvements to post FIRM structures, whereas the addition and or improvements in combination with any interior modifications to the existing structure where a fire wall or independent perimeter load bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

12-2.5 Special Provisions for Subdivisions

- (A) An applicant for subdivision plat approval shall be informed by the Zoning Administrator of the use and construction restrictions contained in Sections 12-2.2, 12-2.3, and 12-2.4 if any portion of the land to be subdivided lies within an area of special flood hazard.
- (B) Final plat approval for any subdivision containing land that lies within an area of special flood hazard may not be given unless the plat shows the boundary of the area of special flood hazard and floodway boundary and contains, in clearly discernible print, the following statement: 'Use of land within an area of special flood hazard is substantially restricted by Section 12-2 of the Nash County Unified Development Ordinance.'
- (C) Subject to the following sentence, a request for final plat approval for any subdivision may not be granted if:
 - (1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots; and
 - (2) Any portion of one or more of the proposed lots lies within an area of special flood hazard; and
 - (3) It reasonably appears that one or more lots described in subsections (C)(1) and (C)(2) could not practicably be used as a residential building site because of the restrictions set forth in Sections 12-2.2, 12-2.3, and 12-2.4.

The foregoing provision shall not apply if a notice that the proposed lots are not intended for sale as residential building lots is recorded on the final plat, or if the developer otherwise demonstrates to the satisfaction of the authority approving the final plat that the proposed lots are not intended for sale as residential building lots.
- (D) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (E) All subdivision proposals shall have public utilities and facilities such as water, sewer, gas, and electrical systems located and constructed so as to minimize flood damage.
- (F) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (G) Base flood elevation data shall be provided for subdivision proposals, which contain fifty lots or five acres, whichever is less.

12-2.6 Water Supply and Sanitary Sewer Systems in Areas of Special Flood Hazard

Whenever any portion of a proposed development is located within an area of special flood hazard or whenever replacement water supply and sewage disposal systems are proposed within an area of special flood hazard, the agency or agencies responsible for certifying to the County the adequacy of the water supply and sewage disposal systems for the development (as set forth in Section 10-7.4) shall be informed by the developer that a specified area within the development lies within an area of special flood hazard. Thereafter, approval of the proposed system by that agency shall constitute a certification that:

- (A) Such water supply system is designed to minimize or eliminate infiltration of floodwaters into it.
- (B) Such sanitary sewer system is designed to eliminate infiltration of floodwaters into it and discharges from it into floodwaters.
- (C) Any on-site sewage disposal system is located to avoid impairment to it or contamination from it during flooding.

12-2.7 Permit Requirements, Certifications, and Duties and Responsibilities of the Zoning Administrator

- (A) Application for a zoning, floodplain development permit, or special use permit shall be made to the Zoning Administrator on forms furnished by the Administrator prior to any development activities. The application permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

(1) Where base flood elevation data are provided in accordance with subsection (B)(2), the application for a permit within the Zone A on the Flood Insurance Rate Map shall show:

(a) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(b) if the structure has been flood proofed in accordance with Section 12-2.4(D)(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.

(c) the proposed method of elevation, if applicable, (i.e. fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);

(d) Openings to facilitate the unimpeded movements of floodwaters when solid foundation perimeter walls are used in A, AO, AE, and A1-30 zones;

(e) Usage details of any enclosed space below the regulatory flood protection elevation;

(f) plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(g) Documentation for placement of Recreational Vehicles and or temporary structures, when applicable to ensure requirements of this ordinance are met.

(h) All certification submittal requirements with timelines

(i) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.

(2) Where the base flood elevation data are not provided, the application for a permit must show construction of the lowest floor at least 2 feet above the highest adjacent grade.

(3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in Section 12-2.4(D)(2).

(5) The following structures, if located within A, AO, AE or A1-30 zones, are exempt from the elevation/floodproofing certification requirements specified in 12-2.7 6:

(a) Recreation Vehicles meeting requirements of 12-2.4 D 4;

(b) Temporary structures meeting requirements of 12-2.4 D 6;

(c) Accessory structures less than 150 square feet meeting requirements of 12-2.4 D 7

(6) A Final As-Built Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (B) The Zoning Administrator shall review all zoning; floodplain development permits, or special use permits to assure that any development within an area of special flood hazard is reasonably safe from the hazards of flooding and shall:
- (1) Where base flood elevation data or floodway data are available:
 - (a) Obtain the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
 - (b) Obtain, for all structures that have been floodproofed (whether or not such structures contain a basement), the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and
 - (c) Maintain a record of all such information.
 - (2) Where base flood elevation data or floodway data have not been provided:
 - (a) Obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to Section 12-2.5(G), for enforcing the requirements set forth in Section 12-2;
 - (b) Obtain and record the actual elevation constituting the highest adjacent grade, to which all new or substantially improved structures are elevated or floodproofed; and
 - (c) Maintain a record of all such information.
 - (3) Notify, in riverine situations, adjacent communities, the NC Department of Crime Control and Public Safety, Division of Emergency Management prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency.
 - (4) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (5) Ensure that all necessary permits have been received from those agencies from which approval is required by federal or state law.
 - (6) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 12-2.4(D)(2).
 - (7) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

(8) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this ordinance are met.

12-2.8 Location of Boundaries of Areas of Special Flood Hazard

As used in Section 12-2, the term 'areas of special flood hazard' refers in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of this term. This term also refers to overlay zoning districts whose boundaries are the boundaries of the areas of special flood hazard shown on the map referenced in Sections 12-2.1(N) and (O), which boundaries are intended to correspond to the actual, physical location of areas of special flood hazard. (These overlay districts thus differ from other zoning districts whose boundaries are established solely according to planning or policy, rather than physical criteria.) Therefore, the Zoning Administrator is authorized to make necessary interpretations as to the exact location of the boundaries of areas of special flood hazards if there appears to be a conflict between a mapped boundary and actual field conditions. Such interpretations, like other decisions of the Zoning Administrator, may be appealed to the Board of Adjustment in accordance with the applicable provisions of this Ordinance.

12-2.9 Amendments to the Official Flood Hazard Zoning and Flood Hazard Boundary Map; Variance Procedures

(A) Amendments to the Official Flood Hazard Zoning and Flood Hazard Boundary Map:

(1) All requests for revisions of areas of special flood hazard boundaries and base flood elevations shall be reviewed and approved by the Federal Emergency Management Agency.

(2) The existing location of any area of special flood hazard as hereinabove defined may be amended in cases where:

(a) A flood control project of the federal, state, county or city government has substantially altered the flood hazard;

(b) Flood data indicates that the boundaries of either of the areas as shown on the official flood boundary and floodway map are no longer correct; or

(c) A private individual, corporation, firm or county agency has submitted plans for a channel improvement or relocation requiring an amendment to the official flood hazard boundary map.

(B) Variance Procedures

Requests for variances from the Flood Hazard Overlay District Requirements shall be reviewed by the Board of Adjustment in accordance with the procedures outlined in Section 7-2.2.

12-2.10 Regulations Do Not Guarantee Flood Protection

The degree of flood protection required by this Ordinance is considered reasonable for regulating purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Nash County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

12-2.11 Setbacks from Streams Outside Designated Areas of Special Flood Hazard

In any area that is located outside a designated area of special flood hazard but where a stream is located, no building or fill may be located within a distance of the stream bank equal to five times the width of the stream at the top of the bank or twenty feet on each side, whichever is greater.

12-2.12 Standards for Riverine Floodplains with BFE but without established floodways or non encroachment areas.

- (A) Along rivers and streams where Base Flood Elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard area on the FIRM or in the FIS, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-2.13 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the Special Flood Hazard Areas where no BFE has been established.

All new construction and substantial improvements of non-residential structures may, in lieu of elevation, be completely floodproofed together with attendant utilities and sanitary facilities at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural

components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed at least to the regulatory flood protection elevation as defined for the Special Flood Hazard Areas where no BFE has been established. Certification is required as per Article 12-2.7 6.

12-3 STORMWATER MANAGEMENT

The general standards contained in this Section shall apply throughout the planning jurisdiction. However, developments located within watershed protection overlay districts shall comply with the applicable additional requirements of Section 12-1.

12-3.1 Natural Drainage System Utilized to Extent Feasible

- (A) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.
- (B) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.

12-3.2 Developments Must Drain Properly

- (A) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
 - (1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or
 - (2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.
- (B) No surface water may be channeled or directed into a sanitary sewer.
- (C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads.
- (D) All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:
 - (1) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

- (2) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

12-3.3 TAR-PAMLICO RIVER BASIN OVERLAY (TPO) DISTRICT REGULATIONS FOR NEW DEVELOPMENT

The Tar-Pamlico Stormwater Rule is designed to significantly reduce nitrogen and phosphorus loading which are needed to restore water quality standards and minimize the recurrence of harmful algae blooms in the Pamlico River estuary. The goal is to reduce nitrogen loading by 30% from 1991 levels and hold phosphorus loading at 1991 levels. In addition, the rule requires that new development not cause erosion of surface water conveyances. At a minimum, new development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm event. This requirement protects stream channels from erosion that occurs with a bankfull-flooding event.

12-3.3.1 General Requirements

All of the regulations delineated in Section 12-3.3 are intended to comply with the requirements of 15A NCAC 2B .0258. Property located within a TPO (Tar-Pamlico Overlay) District shall comply with the provisions of Section 12-3.3. The boundary of the overlay district shall be consistent with the Tar-Pamlico boundary defined by DWQ in Nash County outside of any municipality and its extraterritorial jurisdiction.

12-3.3.2 Applicability

(A) Applicable New Development Activities

- i. Any activity that disturbs more than one acre of land to establish, expand, modify or replace a single-family or duplex residential development or recreational facility is subject to the requirements. For individual single-family residential lots of record, the activity must also result in greater than ten percent built-upon area.
- ii. Any activity that disturbs more than one-half an acre of land to establish, expand, modify or replace a multifamily residential development or a commercial, industrial or institutional facility is subject to the requirements.

(B) Exemptions to Applicability

- i. Vested Projects Exemption –
 - a. Sketch plans and preliminary plats that are approved prior to September 14, 2004 may be considered vested in accordance with section 10-3.2 (F) or 10-3.3 (D).
 - b. Site plans that are approved prior to September 14, 2004 may be considered vested, contingent upon the development being constructed and receiving a final certificate of occupancy within one year (or according to Article IV Section 4-9 Completing Developments In Phases).
 - c. Preliminary plats and site-specific development plans are also considered vested if approved in accordance with Article IV Section 4-15 Zoning Vested Rights.

In no case shall the Vested Projects Exemption apply to a project, which is not fully constructed within 5 years from the date of project approval. Bonding does not constitute “fully constructed” for purposes of this exemption.

- ii. Redevelopment Exemption – The following projects are exempt from the nutrient loading requirements:
 - (a) Any project replacing or expanding existing structures or improvements that does not result in a net increase in built-upon area.
 - (b) Any project located in a “redevelopment area” as defined in Section 12-3.3.3.
- iii. Agricultural Activity Exemption – Agricultural activities, including intensive livestock operations, mining and forestry are exempt from nutrient and peak flow attenuation rules.
- iv. Redevelopment Project Exemption - Any project located in a defined “redevelopment area”.
- v. Peak Flow Attenuation Exemption – A new development project may be exempt from the peak flow attenuation requirements if the increase in peak flow between pre-and post-development conditions does not exceed 10%; or in which the proposed new development meets both of the following criteria: (1) Overall impervious surface is less than 15% and (2) The remaining pervious portions of the site are utilized to the maximum extent practicable to convey and control the stormwater runoff.

12-3.3.3 Definitions

- (A) Best Management Practice (BMP) – A structural or non-structural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (B) Built-Upon Area - That portion of a development project that is covered by impervious or partially impervious cover including but not limited to: buildings, pavement, and gravel area. Slatted wooden decks and the water surface area of pools shall be considered pervious.
- (C) Disturbed Area – Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation including but not limited to: grubbing, stump removal, grading or removal of structures.
- (D) Impervious Surface – A surface composed of any material that impedes or prevents natural infiltration of water into the soil. Gravel areas shall be considered impervious.
- (E) Jurisdiction-Wide Approach - Within the context of the rule and this plan, means generally a nutrient-reducing management measure or strategy implemented under the authority of the County to offset one or more increases that may take place in the same or a separate watershed within the jurisdiction. An offsite-offset project that is implemented under the authority of the County to serve projects in multiple watersheds would be a specific type of jurisdiction-wide approach. Examples of nutrient reducing measures may include but are not limited to conventional stormwater facilities, constructed wetlands, or land conservation.
- (F) Natural Drainage Way – A channel with a defined channel bed and banks that are part of the natural topography. Construction channels such as drainage ditches shall not be considered a natural drainage way unless the constructed channel was a natural drainage way that has been relocated, widened, or otherwise improved.
- (G) New Development

- i. Any activity that disturbs greater than one acre of land in order to establish, expand, replace or modify a single-family or duplex residential development or recreational facility.
 - ii. Any activity that disturbs greater than one-half acre of land in order to establish, expand, replace or modify a multi-family residential development or a commercial, industrial, or institutional facility.
 - iii. New development shall not include mining, agricultural (including ILOs) or forestry activities.
- (H) Nutrients – Nitrogen and phosphorus, which if present in excessive amounts within a water body, can lead to large growths of algae, low dissolved oxygen concentrations, and other water quality problems.
- (I) Redevelopment Area – Any area, such as a historic crossroads community or other existing developed area, for which the Board of County Commissioners establishes a redevelopment strategy that is conducive to the goals of the Tar-Pamlico nutrient strategy, addressing the following criteria:
 - i. A “fix it first” policy that reserves public funds for repair of existing infrastructure in these areas before investing in new infrastructure of the same type in new growth areas.
 - ii. Mixed use/mixed density zoning provisions.
 - iii. Retrofits are consistent with NCDOT definitions for pedestrian scale in traditional neighborhood developments (e.g., 80% of users are within a ¼ mile walk from schools, libraries, and recreational/athletic facilities, 60% of students and 50% of teachers are within ½ mile walk from schools, and 40% of congregants are within ¼ mile of churches).
 - iv. Parking maximums or shared parking ratios.
 - v. Residential density bonuses where parking maximums, pedestrian scale, or “fix it first” are proposed.

The Board shall demonstrate compliance with the above criteria and obtain approval from the NC Division of Water Quality for any such redevelopment area before applying this exemption to any proposed development project within such area. All such redevelopment areas shall be depicted on a map and established by resolution.

- (J) Regional Facilities - Within the context of this plan, regional facility means a stormwater facility that serves a large developed area and serves more than one development draining to the same classified water. Examples of regional facilities may include but are not limited to wet detention ponds or constructed wetlands.
- (K) Stormwater – flow resulting from and occurring after any form of precipitation.
- (L) Stormwater Conveyance System or Structure – any feature, natural or manmade, that collects and transports stormwater, including but not limited to roadways with collection systems, catch basins, man-made and natural channels, streams, pipes and culverts, and any other structure or system designed to transport runoff.
- (M) Vegetative Buffer – an area that has a dense ground cover of herbaceous or woody species, which provides for diffusion and infiltration of runoff and filtering of pollutants.

12.3.3.4 Permit Procedures, Requirements, and Approvals.

- (1) Permit Required.

No person shall receive any permit for land development or land disturbing activity without first meeting the requirements of this part and receiving a stormwater permit prior to commencing the proposed activity unless specifically excluded from the requirements of this ordinance.

(2) Application Requirements.

- (1) Exemption Review: Any project seeking and exemption according to 12-3.3.2 (B) Exemptions to Applicability shall submit in writing the reason for the exemption. The Stormwater Administrator shall issue an exemption confirmation including any conditions or limitations on exemption (e.g. the date a vesting exemption expires).
- (2) Sketch Review: Nutrient calculation worksheets must be submitted with sketch plans or preliminary site plans and must show that the design will obtain the required nutrient reduction.
- (3) Permit Review: Any person desiring a stormwater permit shall submit a permit application to the Stormwater Administrator on a form provided by Nash County for that purpose. Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order for the permit application to be considered complete:

If No BMPs or Peak Flow measures are Proposed:

1. Two copies of professionally sealed calculation worksheets demonstrating that the proposed development complies with Tar-Pam Nutrient Reduction Requirements as designed;
2. Site plan or preliminary plat showing land coverage (transportation and roof impervious, managed and wooded pervious areas);
3. Conservation easement with map and description, if applicable, and;
4. A non-refundable permit review fee.

If BMPs or peak flow attenuation measures are indicated or requires, the application must also include:

1. Approved BMP and/or Peak flow facility design specifications and calculation, including narrative;
2. Map showing drainage area into treatment BMP or peak flow facility (may include offsite areas)
3. Two copies of stormwater management plan;
4. Two copies of an operation and maintenance agreement;
5. Statement of intent to provide required financial security (12-3.3.15 and 12-1.14(2)), including how cost were calculated.

(3) Application Procedure.

- (4) Applications for a stormwater permit may be filed with the Stormwater Administrator during regular business hours.
 - (5) An application for a stormwater permit may be filed simultaneously with an application for a building permit, grading permit or other land development permit issued by Nash County.
 - (6) Any applicant claiming a variance to one or more requirements of this ordinance shall submit evidence of valid approval of such variance at the time of permit application.
- (4) Stormwater Management Plan Requirements.
- (7) All plans shall be prepared and sealed by a qualified professional who also certifies under seal that the plan, including engineering detail, conforms to the minimum requirements established by this ordinance.
 - (8) All plans shall include a site plan, which at a minimum, clearly indicates the following features unless the Stormwater Administrator determines that certain elements are not appropriate or are unnecessary for a particular application:
 - i. Ownership and use of the proposed site and all surrounding properties;
 - ii. The entire area of development and existing built-upon area on the site;
 - iii. Existing and proposed structures and impervious surfaces;
 - iv. The location of any watercourses or surface water bodies;
 - v. The location, extent and dimensions of all existing and proposed stormwater conveyances on and immediately adjacent to the development site;
 - vi. Existing and proposed buffer areas;
 - vii. Existing and proposed open space;
 - viii. Existing and proposed conservation easements;
 - ix. Existing and proposed topography using two foot contours;
 - x. Existing and proposed structural BMPs;
 - xi. Existing and proposed structures related to peak flow attenuation;
 - xii. The extent of existing vegetation;

- xiii. Acreages of the various proposed land covers (e.g. pervious, impervious, managed open space, etc.);
 - xiv. Drainage areas flowing into BMPs and/or Peak Flow attenuation facilities (may include offsite areas:
 - xv. Diversion methods or structures if offsite drainage is diverted around site and excluded from calculations; and
 - xvi. Any other information that the Stormwater Administrator needs in order to determine compliance with these regulations.
- (9) All plans shall clearly demonstrate protection of and diffuse flow through buffer areas.
 - (10) All plans shall include nutrient calculation worksheets and peak flow calculations as established in section 12-3.3.6.
 - (11) All plans shall include data, site plans, and information necessary to support a proposed offsite approach, if applicable, as established in section 12.3.3.9.
 - (12) All plans shall include a landscaping plan, which clearly shows the extent of undisturbed vegetation and the location, species, number, and planting characteristics (including height at time of planting, spacing, etc.) of proposed vegetation. The plan must also describe the vegetative stabilization and management techniques to be used at the site after construction is completed, who will be responsible for the maintenance of vegetation, and what practices will be employed to ensure that adequate vegetative cover is preserved.
 - (13) All plans shall include engineering detail for each structural BMP, including calculations and narrative, sufficient to determine compliance with this ordinance.
- (5) Permit Review and Approval Procedure.
 - (14) The Stormwater Administrator shall approve, approve with conditions, forward to the Technical Review Committee, or deny the permit application within ten (10) days of submittal.
 - (15) The Stormwater Administrator shall approve, approve with conditions, or deny the permit application within ten (10) days based on the recommendations of the Technical Review Committee.
 - (16) If the permit application is denied, the Stormwater Administrator shall provide written comments to the applicant explaining the reason(s) for denial.

(17) If the permit application is approved by the Stormwater Administrator, a stormwater permit shall be issued.

(18) A previously denied permit application may not be resubmitted for consideration unless the Stormwater Administrator determines that material facts, either in the ordinance or the application, have changed significantly enough to warrant reconsideration.

(6) Permit Duration.

Permits issued under this section shall be valid for a period of six months from the date of issuance unless a valid building permit has been issued and maintained for the site or the permit has been revoked by the Stormwater Administrator. If after six months the permitted activity has not begun nor a valid building permit secured, the stormwater permit shall expire.

(7) Permit Amendments.

Once an applicant has received a stormwater permit, any minor change or alteration to the site, as determined by the Stormwater Administrator, that is inconsistent with the approved permit shall require an amendment to the approved permit. Any major change or alteration to the site, as determined by the Stormwater Administrator, shall require the owner to submit a new stormwater permit application to the Stormwater Administrator for review and approval. Until such amendment or new permit have been approved, no work inconsistent with the original permit shall be commenced.

(8) Permit Recordation.

Permits issued under this section shall not be valid until they have been recorded in the office of the Register of Deeds of Nash County. The recorded permit shall include a list of all conditions placed on the permit by the county and shall include references to the location of critical supporting documentation not included with the permit which may include, but shall not be limited to, approved stormwater management plans, operation and maintenance agreements

12.3.3.5 Calculating Peak Run-Off Volume

- A. Projects must be designed so that there shall be no net increase in peak flow leaving the developed site from the predevelopment conditions for the 1-year, 24-hour storm.
- B. The following are acceptable methodologies for computing the pre- and post-development conditions for the 1-year, 24-hour storm:
 - i. Rational Method.
 - ii. Small Watershed Method (Dr. Rooney Malcom, P.E.).
 - iii. Peak Discharge Method (as described in the USDA Soil Conservation Service's Technical Release Number 55).
 - iv. Putnam Method.

- v. Alternative methods approved by the County and the Environmental Management Commission.
- C. The same method must be used for both the pre- and post-development conditions.
- D. Design Storm Options for Peak Flow
 - a. Option 1 – 1-Year Design Storm – Nash County – 3.1 inches. In Nash County, for the one-year storm, the value for “g” is 112 and “h” is 20.
 - b. Option 2 – 2-Year Design Storm, but Controlled to 1-Year Predevelopment Levels
 - i. Compute the peak flows (both pre- and post-development) from the drainage area based on the 2-year design storm using one of the methodologies listed above.
 - ii. Estimate the 1-year predevelopment peak flow by multiplying the 2-year predevelopment peak by 80%.
 - iii. Design a BMP that will control the 2-year post development peak flow to 1-year pre-development peak flow levels.

12-3.3.6 Nutrient Loading

(A) Single and Two-Family Residential New Development

1. The nitrogen load contributed by new development activities shall not exceed 4.0 pounds per acre per year (lbs/ac/yr). Projects may achieve this load through onsite or offsite measures or some combination thereof as described in Section 12-3.3.6. In no case shall onsite loading exceed 6 lbs/ac/yr.
2. The phosphorus load contributed by new development activities shall not exceed 0.4 lbs/ac/yr.
3. The nitrogen (N) and phosphorus (P) exports must be calculated from each new development in lbs/ac/yr on the following automated worksheets provided both manually and electronically by the Nash County Planning and Development Department and as updated by DWQ:
 - i. Export Calculation Worksheet for Piedmont Communities.
 - ii. BMP Removal Calculation Worksheet for Piedmont Communities.
 - iii. The Residential Worksheet provided in the calculation worksheets must be used to estimate land coverage’s (pervious and impervious), and apply the results to the nutrient export worksheets.

(B) Multi-family and Non-Residential New Development

1. The nitrogen load contributed by new development activities shall not exceed 4.0 pounds per acre per year. Projects may achieve this load through onsite or offsite measures or some combination thereof; however, in no case shall onsite loading exceed 10 lbs/acre.
2. The phosphorus load contributed by new development activities shall not exceed 0.4 pounds per acre per year.

3. The nitrogen (N) and phosphorus (P) exports must be calculated from each new development in pounds/acre/year on the following automated worksheets provided on the Nash County website or the manual version provided in the Nash County Planning Department:
 - i. Export Calculation Worksheet for Piedmont Communities.
 - ii. BMP Removal Calculation Worksheet for Piedmont

12-3.3.7 Best Management Practices (BMPs) for Reducing Nitrogen and Phosphorus

- (A) Incorporation of the Stormwater Best Management Practices Manual.

The North Carolina Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, *Stormwater Best Management Practices Manual, 1999*, and all amendments thereto, hereafter referred to as the “NC BMP manual” or “NC Design Manual”, is hereby adopted by reference as fully as though set forth herein and shall be used to design required BMPs. If any standard, requirement, or procedure as set forth in the manual is in conflict with any standard, requirement, or procedure, as set forth in this ordinance then the most stringent shall prevail. A copy of this manual shall be available for public review in the Nash County Planning and Development Department.

- (B) Lowering Nitrogen Levels

(1) Single and Two-family Residential Development: When Nitrogen export is greater than 6 lbs/ac/yr, the owner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy to lower nitrogen to at least 6.

When Nitrogen export is greater than 4 lb but less than 6 lbs/ac/yr, the owner may install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same nitrogen mass loading reduction that would have occurred on the new development site, or some combination thereof.

(2) Multifamily and Nonresidential Development: When Nitrogen export is greater than 10 lb N/ac/yr, the owner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy to lower nitrogen to at least 10 lbs/ac/yr. When Nitrogen export is greater than 4 lbs. but less than 10 lbs /ac/yr, the owner may install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same nitrogen mass loading reduction that would have occurred on the new development site, or some combination thereof.

(3) Multiple BMPs

Multiple BMPs may be installed in series on a development; however the removal rate is calculated through serial rather than additive calculations.

C. BMP Removal Rates - BMP Types, TN and TP Removal Rates and Design Standards

BMP Type	TN Removal Rate per Literature Review	TP Removal Rate per Literature Review	Appropriate Design Standards
Wet detention ponds	25%	40%	NC Design Manual
Constructed wetlands	40%	35%	NC Design Manual
Restored riparian buffers	30%	30%	Tar-Pamlico Riparian Buffer Rule (15A NCAC 2B .0259)
Grass Swales	20%	20%	NC Design Manuals
Vegetated filter strips with level spreader	30%	30%	NC Design Manuals and other literature information
Bioretention (rain gardens)	40%	35%	NC Design Manuals
Sand Filters	35%	45%	NC Design Manuals
Proprietary BMPs	Varies	Varies	Per manufacturer subject to DWQ approval
Other BMPs	Varies	Varies	Subject to DWQ approval

12-3.3.8 Assigning Values to Pervious Cover

Wooded or Forested Areas - Undisturbed wooded or forested areas are calculated at the lawn/landscape managed pervious export rate; unless a county-approved permanent conservation easement for ensuring protection is executed and recorded.

Riparian Buffer Areas described in Article IV Section 12-3.4.5 Delineation of Buffer Zones are calculated as follows: Zone 1 is calculated as “wooded pervious”. Zone 2 is calculated as “managed pervious” (lawn/landscape).

12-3.3.9 Offsite Partial Offset Option for Nutrient Reduction

The Tar-Pamlico stormwater rule provides two options for partially offsetting nitrogen and phosphorus load increases from new development by making a one-time payment to the North Carolina Division of Mitigation Services Nutrient Offset Program, or by providing treatment of offsite-developed areas. There is no option for making a payment to address peak flow attenuation. To participate in either option, the development plan must demonstrate the following:

1. The new development first reduces nitrogen export from the site to at least 6.0 lbs/ac/yr for residential and 10.0 lbs/ac/yr for other types of

development. The balance of the nitrogen removal must be made by the offsite options.

2. The net phosphorus loading for the project must be reduced to at least 0.4 lb/ac/yr. Some or all of the reduction may be obtained through the offsite options.

Option 1: The Nutrient Buy-Down Option:

- i. Pay a one-time offset payment to the North Carolina Division of Mitigation Services (DMS) Nutrient Offset Program or purchase offset credits from an authorized private mitigation bank using the applicable nitrogen and phosphorous offset payment calculations specified in the Nutrient Offset Payments Rule (15A NCAC 02B.0240). (Reserved)
- ii. In cases where reductions are needed for both nitrogen and phosphorous and the offset option is sought, shall make payment to address each nutrient type.
- iii. Applicant shall check availability of credits from approved private mitigation banks in the Service Area. If credits are available from a private bank, the developer must purchase from the private bank. If no credits are available the applicant submits the nutrient offset request directly to NC DMS for the purchase of the necessary credits. Prior to Nash County issuing a permit, the developer shall provide receipt from NCDMS.
(Amended)

Option 2: Offsite Construction Measures

The offsite area must drain to the same classified surface water as the new development, as defined in the schedule of classifications, 15A NCAC 2B .0316. The developer must also provide appropriate legal measures to ensure that the offsite area achieves and maintains the credited nutrient reduction for as long as the new development exists, including through changes of ownership on either property. In order to take advantage of the partial offset option, the development plan must demonstrate the following criteria:

- That the offsite facility drains into the same classified surface water as the new development.
- The offsite facility may be used to address only the nutrient requirements, unless the development proposal demonstrates that meeting some or all attenuation requirements offsite will not result in degradation of surface waters to which the new development site discharges.
- The off site BMP may serve multiple projects provided the facility is appropriately sized and a tracking system to allocate nutrient removal is in place and the off-site facility has been approved as a regional BMP.
- Both the development owner and the owner of the offsite facility must agree in a documented, enforceable manner that offsite facilities are dedicated to achieving the specified nutrient and flow reductions for the life of the new development. The responsibility for maintaining these reductions as well as the provisions of any required conservation easements and operation and maintenance agreements shall run with the land and be binding upon subsequent owners of both the development project and the off site BMP.
- The operation and maintenance agreement shall require an annual inspection by a licensed professional and shall ensure that Nash County has the authority

to inspect the stormwater facilities and make any necessary corrections if the owner fails to complete the required inspection or complete any required improvements. Any costs associated with this work, including administrative costs and fines, will be charge to the owner or party legally responsible for maintenance of the facility.

Many individual developments include stormwater designs that could be interpreted as “off-site” or “regional” under the broadest of definitions, but which are not intended for the type of review and approval process described here. Projects such as phased developments or commercial projects with out parcels may propose using shared stormwater facilities that receive runoff from more than one lot and that would be accessed by lots under different ownership at different points in time. These shared facilities are not considered “off-site” or “regional” and may be permitted as “on-site” facilities not subject to the pre-treatment limitations defined above.

12-3.3.10 Regional or Jurisdiction Wide Options for Nutrient Reduction or Flow Control Requirements

Regional and jurisdiction-wide options and requirements are described in the Nash County Stormwater Program plan. Nash County shall propose any such strategy to and gain approval from the NC Division of Water Quality prior to permitting its use by any proposed development project.

12-3.3.11 Annual Maintenance of BMPs

The County is required to ensure that BMPs implemented to achieve the nitrogen and phosphorus reduction and flow attenuation requirements for development are maintained and inspected on yearly basis.

12-3.3.12 Owners' Associations

An owners association shall be established in accordance with Article X - Section 10-5 for the purpose of owning all BMPs shown on the development plan and for ensuring that maintenance is performed to keep BMPs functioning properly. The articles of incorporation must be submitted to the County for review and approval and must contain clear language and a means for collecting dues for the cost of BMP maintenance and yearly certification. Owners associations are not required for single-owner sites; however, are required for two-family or duplex developments.

12-3.3.13 Establishment and Elements of the Maintenance Agreement

In addition to the provisions of Section 12-1.15, a Maintenance Agreement shall be submitted at the time of final plat or site plan and executed by the Owners Association and the County prior to recordation of the final plat or issuance of a certificate of occupancy, and shall contain the following elements:

(A) Yearly Maintenance Plan

1. Name, address and contact telephone numbers of all current officers of the Owners Association. Any changes in this information during the year should be provided to the Planning Department within 30 days of the change.
2. Description of method used to collect dues or other payments necessary for maintenance of BMPs.
3. For each BMP type, description of BMP features requiring inspection, inspection frequency, types and frequencies of or basis for routine and periodic maintenance activities, actions in the event that repair is needed. Maintenance actions and frequencies shall at minimum include those identified by practice in the NC BMP Manual.
4. Depending on the BMPs constructed the plan might include schedules or other provisions for:
 - Any mowing of permanent vegetation.
 - Any removal of bushes and trees from the dam of a wet detention pond.
 - Reseeding of any eroding areas of the wet detention ponds, open channel practices, riparian buffers and vegetated filter strips.
 - Replacing of impaired vegetation in a constructed wetlands or riparian buffer.
 - Removal of debris from the “trash rack” on any wet detention pond or sand filter.
 - Repair of any damage to structural aspects of wet detention ponds, constructed wetlands, level spreaders, and sand filters.

(B) Yearly Certification of BMPs

Submission to the County of a yearly certification from a licensed engineer, certifying that the BMPs originally approved are in existence, functioning properly and compliant with the yearly maintenance plan. Records of maintenance and/or repair activities shall be maintained by the owner for at least 5 years and shall be provided to the county upon request

(C) Authority for the County to Inspect and Maintain Stormwater Facilities

1. Legal authority for the County to routinely inspect stormwater facilities.
2. Legal authority for the County to require performance of maintenance activities to ensure continued operational performance of BMPs.
3. Legal authority for the County to place liens on common properties in the subdivision/development and other actions deemed necessary to recover the cost of inspection and maintenance if the BMPs are not properly maintained and certified.

(D) Contact Information

1. Name and address of the person or organization financially responsible for maintenance specified in the annual inspection report.
2. Emergency contact information.

12-3.3.14 Failure to Comply with the Provisions of the Maintenance Agreement

Any violation of the Maintenance agreement shall be considered a violation of the Unified Development Ordinance and shall be enforced in accordance with Article

XII Section 12-3.6. In addition, if the situation meets the definition of a nuisance as defined in NCGS 153A-140 other corrective actions may be taken.

12-3.3.15 Financial Security for Stormwater Control Structures

All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structures and shall be done so as required in Section 12-1.14.

12-3.3.16 Requirement of Sealed Drawings for Stormwater Facilities

Developers shall be required to submit the following sealed as-built drawings:

- Drawings of any new or addition to a stormwater conveyance by a private developer;
- Drawings of all development sites to determine compliance with the “approved plan” and the requirements of the Tar-Pamlico Overlay District.
- As-built plans of each BMP along with a statement under seal that the BMP as constructed complies with the approved plans and the UDO.

12-3.3.17 Amendments and Variances to the Tar-Pam Overlay District Regulations

The county may not amend the program or grant a variance in a manner that fails to meet the minimum requirements of the rule without prior approval from DWQ.

12-3.4 RIPARIAN BUFFER REGULATIONS

Riparian buffers shall be protected because in most cases they provide a measure of protection for surface waters by removal of nutrients from nonpoint sources. The riparian buffer regulations are intended to protect and preserve existing riparian buffers and maintain their nutrient removal functions within the county’s river basins.

12-3.4.1 General Requirements

All of the regulations delineated in Section 12-3.4 are intended to comply with the requirements of 15A NCAC 2B .0259. All property located in Nash County outside of any municipal boundary or extraterritorial jurisdiction shall comply with the riparian buffer regulations.

12-3.4.2 Applicability

- a. The Riparian Buffer regulations shall apply to all areas of the county outside of any municipal boundary or its extraterritorial jurisdiction.
- b. Riparian Buffer Exemption – Existing and ongoing uses within the riparian buffer, if present as of January 1, 2000, may be exempt from the riparian buffer protection requirements according to the provisions outlined in 15A NCAC 02B .0259. Proposed developments, which have county approval, but have not been constructed as of January 1, 2000, may not claim an exemption to the riparian buffer protection requirements.

12-3.4.3 Definitions

DWQ – Division of Water Quality, NC Department of Environment and Natural Resources.

Riparian Buffer – An area within 50' of intermittent and perennial streams, ponds, lakes and estuarine waters in the basin where development is not allowed. These areas are shown on either the USGS 7.5 minute topographic map or the NRCS Soil Survey map unless the owner can show that the activity has been approved by DWQ. Certain allowable uses within the buffer are described in 15A NCAC 2B .0259.

12-3.4.4 Riparian Buffer Protection

The purpose of this regulation is to protect and preserve existing riparian buffers to maintain their nutrient removal functions in the entire Tar-Pamlico River Basin. As required by 15A NCAC 02B .0259, a fifty-foot (50') wide riparian buffer shall be maintained directly adjacent to all perennial and intermittent streams, including lakes, ponds and other bodies of water, excluding wetlands, as indicated on the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the USGS and all other surface waters as indicated by the most recent version of the Soil Survey for Nash County, North Carolina. Where obvious conflicts exist between actual field conditions and USGS and county soil survey maps, appeals may be made to the North Carolina Division of Water Quality.

12-3.4.5 Delineation of Buffer Zones

The buffer is divided into two zones, moving landward from the surface water, that are afforded different levels of protection. Zone 1, the first 30 feet, is to remain essentially undisturbed, while Zone 2, the outer 20 feet, must be vegetated but may be managed in certain ways, such as grading and revegetating provided that the health of the vegetation in Zone 1 is not compromised. Zones are specifically described in 15 NCAC 02B .0259 (4)(a and b).

For intermittent and perennial streams, Zone 1 begins at the most landward limit of the top of the bank or the rooted herbaceous vegetation and extending landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to the surface water.

For ponds lakes and reservoirs located within a natural drainage way, Zone 1 shall begin at the most landward limit of the normal water level or the rooted herbaceous vegetation and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

12-3.4.6 Activity Within the Buffer

Activity may take place within any riparian buffer zone as defined by 15A NCAC 02B .0259 subject to approval from DWQ. No development proposal that includes impact to the riparian buffer shall be approved by Nash County unless it includes one of the following:

- Certifications from DWQ that surface waters are not present as determined by an on-site inspection.
- An Authorization Certificate from DWQ for an “allowable” use such as a road crossing or utility line, or for a use that is “allowable with mitigation” along with a Division-approved mitigation plan has been obtained.
- A documented opinion from DWQ that a vested right has been established for the proposed development activity.
- A letter from DWQ documenting that a variance has been approved for the proposed development activity.

12-3.4.7 Buffers Depicted on Development Plans

Required riparian buffers shall be shown on all plats and/or site plans submitted with a note indicating the protected nature of the buffer and how diffuse flow is to be maintained. When required by the Planning Board, the placement of “no mow” signs shall be required to relay the buffer protection to the public.

12-3.4.8 Variances to the Riparian Buffer Rule

Requests for variances to the Riparian Buffer Rule shall be directed to, and approval sought from, the Division of Water Quality, DENR.

12-3.5 CONTROL OF ILLEGAL DISCHARGES

The Tar-Pamlico River Basin Model Stormwater Program for Nutrient Control requires that local governments establish the legal authority to control illegal discharges. The objectives of this article are to:

- (A) Regulate the discharge of substances, which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the State;
- (B) Regulate connections to the stormwater conveyance system;
- (C) Provide for the proper handling of spills; and
- (D) Provide for the enforcement of same.

12-3.5.1 Requirements of the Illegal Discharge Rule

Nash County shall control the contribution of illegal pollutants or discharges such as those listed below to the stormwater collection system; prohibit illegal discharges including spills into the stormwater collection system; determine compliance and noncompliance with the regulations; and require compliance and undertake enforcement measures in cases of noncompliance. Types of discharges that are not allowed to any stormwater collection system are as follows and may include but are not limited to:

- i. Dumping of oil, anti-freeze, paint, cleaning fluids;
- ii. Contaminated foundation drains;
- iii. Sanitary sewer discharges;
- iv. Chlorinated backwash and draining associated with swimming pools;
- v. Wash water from commercial car washes;
- vi. Cooling water unless no chemicals are added and the facility has an NPDES permit;
- vii. Septic tank discharges;
- viii. Industrial discharges;
- ix. Wash water from commercial or industrial activities;
- x. Washing machine discharges.

12-3.5.2 Applicability

The jurisdiction of this Ordinance shall apply to all unincorporated areas within the Tar-Pamlico River Basin in Nash County and are intended to comply with the requirements of 15A NCAC 2B .0258. The regulations shall not apply to any municipalities or their extraterritorial jurisdiction.

12-3.5.3 Exceptions to Applicability.

- A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulations pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of Nash County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
- B. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

12-3.5.4 Definitions.

As used in this Ordinance, unless the context clearly indicates otherwise, the following definitions apply:

Illicit connection - Any connection, which allows the unlawful discharge of non-stormwater to the stormwater conveyance system or waters of the State in violation of this Ordinance.

Illicit discharge - Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the State, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the State.

Pollutant - Anything, which causes or contributes to pollution. Pollutants may

include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Stormwater - Any flow resulting from, and occurring during or following, any form of natural precipitation.

Stormwater conveyance or stormwater conveyance system - Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made and natural channels, pipes, culverts, and storm drains, and any other natural or man-made feature or structure designed or used for collecting or conveying stormwater.

Water Pollution - Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

Waters of the State - Any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of this State, including any portion of the Atlantic Ocean over which the State has jurisdiction. (1987, c.827, s. 152A; 1989, c. 727, s. 218(103); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991 (Reg. Sess., 1992), c. 1028, s. 1; 1997-443, s. 11A.119(a).)

12-3.5.5 Non-Stormwater Discharge Controls.

(A) Prohibited Discharges.

Discharges to a stormwater conveyance or system, which allow the discharge of non-stormwater, other than the exclusions described in Section (B) below, are unlawful.

(B) Allowable Discharges.

Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

- i. Filter backwash and draining associated with swimming pools;
- ii. Filter backwash and draining associated with raw water intake screening and filtering devices;
- iii. Condensate from residential or commercial air conditioning;
- iv. Residential vehicle washing;
- v. Flushing, hydrostatic and chlorine testing water associated with utility distribution systems;
- vi. Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state,

- or local government on-scene coordinator;
- vii. Uncontaminated ground water [including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities];
- viii. Collected infiltrated stormwater from foundation or footing drains;
- ix. Collected ground water and infiltrated stormwater from basement or crawlspace pumps;
- x. Irrigation water;
- xi. Street wash water;
- xii. Flows from fire fighting;
- xiii. Discharges from the pumping or draining of natural watercourses or water bodies;
- xiv. Flushing and cleaning of stormwater conveyances with unmodified potable water;
- xv. Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- xvi. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by DENR.

(C) Illicit Connections.

Connections to a stormwater conveyance or system, which allow the discharge of non-stormwater, other than the exclusions described in Section (B) above, are unlawful and shall be enforced in accordance with Article XII Section 12-3.6. In addition, if the situation meets the definition of a nuisance as defined in NCGS 153A-140 other corrective actions may be taken.

(D) Timetable for Removal of Illicit Connections.

Existing Violations - For connections existing in violation of this Ordinance that were made prior to the adoption of this Ordinance, the property owner or the person using the connection may be allowed up to three (3) months to remove the connection following notification of violation of this ordinance. However, this three (3) month period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

Where it is determined that said connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, animal resources, wildlife, or habitat, the authorized agent of the County or his/her designee shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the County shall take into consideration:

- i. The quantity and complexity of the work,
- ii. The consequences of delay,
- iii. The potential harm to the environment, to the public health, and to public and private property, and
- iv. The cost of remedying the damage.

v. Spills.

(E) Spills and Leaks

Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition.

(F) Notification of Spills

Persons associated with the spill or leak shall immediately notify the County Emergency Management Office of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the clean-up, restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

12-3.6 INSPECTIONS AND ENFORCEMENT

12-3.6.1 Authority to Enter.

Agents and officials of Nash County shall have the right to enter property at all reasonable times to inspect sites subject to the requirements of this ordinance to determine whether the development, BMPs, discharges and/or other activities on the property conform to the standards and requirements as set out herein. No person shall obstruct, delay, hamper, or in any way interfere with a county agent or official while in the process of carrying out their duties under this ordinance.

12-3.6.2 Inspection of Stormwater Facilities.

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or an NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

12-3.6.3 Remedies.

The provisions of this ordinance may be enforced by one, all, or a combination of the remedies authorized and prescribed herein including civil penalties, criminal penalties, injunctive relief, stop work orders, permit revocation, restoration, and abatement.

12-3.6.4 Notice of Violation/Warning Citation.

Upon determination that a violation of this ordinance has occurred, the county shall issue a notice of violation to the owner of the property on which the violation has occurred and/or the alleged violator if such is believed to be different than the owner. A notice of violation shall be construed to be a warning citation and shall either: 1) be served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person, or 2) posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of Nash County or obtained from the violator at the time of issuance of a permit. The violator shall be deemed to have been served upon the mailing or delivery of said notice. The notice of violation shall indicate the nature of the violation, order any action necessary to correct the violation, state a deadline for compliance, and shall contain an order to immediately cease the violation. The notice of violation shall state that it may be appealed in a manner set out by this ordinance and it shall state that failure to correct the violation shall subject the violator to any and all penalties prescribed herein. In establishing the deadline for compliance, the county shall take into consideration the quantity and complexity of the work, the public health and environmental consequences of delay, and the effectiveness and timeliness of previous corrective actions taken by the violator but in no case shall the deadline for compliance exceed sixty calendar days.

An appeal from a notice of violation must be submitted within 10 days of receipt of the notice of violation. If filed 25 days prior to the next regularly scheduled Board of Adjustment meeting, the matter will be considered at that meeting. If filed less than 25 days prior to the meeting, the matter will be considered the following month. The Board of Adjustment in considering appeals of notices of violation shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of the ordinance, or both. A violator who fails to file an appeal within the time period prescribed above is deemed to have forfeited his appeal rights for the violation, the notice of violation, civil citations, and civil penalties assessed for the violation.

Where the Stormwater Administrator determines that the period of time stated in the notice of violation is not sufficient for abatement based upon the work required or consent agreement, the Stormwater Administrator may amend the notice of violation to provide for additional time not to exceed sixty calendar days from the date of the initial notice. The Board of Adjustment shall have the authority to extend this deadline for those cases where such time extension is proven to this board to be required due to the complexity and/or severity of the violation. Such extension shall be granted as a result of an appeal of the deadline established by the stormwater administrator. Violations which are an imminent threat to public health, safety, and/or welfare shall not be granted an extension.

12-3.6.5 Civil Penalties in General.

Upon failure of the violator to obey the notice of violation, a civil citation shall be issued by the Stormwater Administrator and shall be either: 1) served directly on the violator, his duly designated agent, or registered agent if a corporation, in person, or 2) posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of Nash County

or obtained from the violator at the time of issuance of the notice of violation. The violator shall be deemed to have been served upon the mailing or delivery of said citation. The citation shall direct the violator to appear before the county manager, or his designee, within ten days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued.

If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which the county has issued a notice of violation or civil citation.

If the violator fails to respond to a citation within fifteen days of its issuance and pay the penalty prescribed therein, the county may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

At the discretion of the county manager, civil penalties for first time offenders may be waived provided that the offender demonstrates a good faith effort to correct the violation in a timely manner.

12-3.6.6 Civil Penalty Amounts.

Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit shall be subject to civil penalties as set out below.

Work without a permit: \$500 per day

Failure to correct a violation after notice: \$500 per day

Failure to obey a stop work order: \$500 per day

Submitting false information and/or certifications: \$300

Failure to follow an approved permit: \$300

Failure to maintain required BMPs: \$250

Failure to file a required maintenance inspection report: \$250

Failure to submit required certifications: \$250

Failure to submit required as-built plans: \$200

Illicit connection/discharge to an MS4: \$200

Any other action or failure to act that constitutes a violation of this ordinance: \$200

12-3.6.7 Criminal Penalties.

Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit shall be guilty of a misdemeanor punishable by fines and/or imprisonment as determined by the court.

12-3.6.8 Injunctive Relief.

Whenever the county has reasonable cause to believe that any person is violating or threatening to violate any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit, the county may initiate a civil action in local superior court to restrain the actions of such person that would constitute a violation. Upon finding that such violation has occurred or is threatened to occur, the court may issue any order of abatement or action necessary to insure compliance with this ordinance. The institution of an action for injunctive relief shall not relieve any party to the proceeding from any civil or criminal penalty prescribed herein.

12-3.6.9 Stop Work Order.

Whenever it is determined that work is proceeding without a valid stormwater permit, that work is proceeding in a manner inconsistent with a valid stormwater permit, or that work while proceeding according to a valid permit is insufficient to meet the requirements of this ordinance, the Stormwater Administrator may issue a stop work order. The order shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefore, and the conditions under which the work may be resumed. An appeal from a stop work order may be filed with the Stormwater Administrator as set out herein.

12-3.6.10 Revocation of Permits.

Any permit issued pursuant to this ordinance may be revoked by the Stormwater Administrator at any time for one or more of the following reasons:

- (1) Failure to comply with an approved permit.
- (2) The discovery of false, incomplete, or erroneous information submitted as part of the permit application.
- (3) Failure to allow reasonable and timely access to the property for any and all inspections deemed by the county to be necessary to insure compliance with this ordinance.
- (4) The discovery that a permit was mistakenly issued.

12-3.6.11 Restoration.

Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any approved stormwater permit shall be, in addition to all other remedies, subject to site restoration. The Stormwater Administrator shall take into consideration the nature and extent of the violation, the impact upon the land, public health and safety and any other factors he deems necessary in determining whether or not restoration shall be required. If the Stormwater Administrator determines that restoration is required, the violator shall restore all land, water, and vegetation affected by the violation to its condition prior to the violation except that whenever the prior condition is unknown or disputed the Stormwater Administrator shall determine the extent of restoration required. Whenever trees are removed in

violation of this ordinance, new trees shall be planted at a rate of nine inches of tree circumference for every one hundred square feet of disturbed area. All replacement trees shall be native woodland species suited to the growing conditions of the planting area. In setting the time limits for restoration, the Stormwater Administrator shall take into account the quantity of work required, planting seasons, and the consequences of delay.

12-3.6.12 Abatement.

Whenever a violation of this ordinance for which a notice of violation has been sent remains uncorrected after the appeal rights of the violator have been forfeited or exhausted and such violation has been determined by the Stormwater Administrator to be dangerous or prejudicial to the public health, the county shall have the authority to remove, abate, or remedy the violation. The expense of this action including administrative costs shall be billed to the person in violation of this ordinance and, if not paid, shall be a lien upon the land or premises where the violation occurred and shall be collected as unpaid taxes.

12-3.6.13 Continuing Violations.

Each day of violation shall constitute a separate and distinct violation subject to any and all remedies set forth herein.

12-4 SOIL EROSION AND SEDIMENTATION CONTROL

- (A) No zoning or special use permit may be issued and preliminary plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the NC Sedimentation Control Commission under NCGS 113A-57(4) unless the Commission has certified to the County, either that:
 - (1) An erosion control plan has been submitted to and approved by the Commission; or
 - (2) The Commission has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Commission approves the erosion control plan.

- (B) For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6)). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

12-5 COORDINATION WITH THE US ARMY CORPS OF ENGINEERS REGARDING WETLANDS

If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required from the US Army Corps of Engineers prior to commencement of earth-disturbing activities. The US Army Corps of Engineers shall be notified by the developer or person proposing such earth-disturbing activities for possible issuance of Section 404 or other permits.

12-6 AIRPORT OVERLAY DISTRICT REQUIREMENTS

It is the intent of this Section to restrain influences which are adverse to the property and safe conduct of aircraft operations in the vicinity of Rocky Mount Wilson Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, the "AO" designation, when appended to a basic district classification is intended to coordinate the purpose and intent of this Section with other regulations duly established by Nash County whose primary intent is to further the purposes set out above.

12-6.1 Definitions

As used in this Section, unless the context otherwise requires:

- (a) AIRPORT- Means the Rocky Mount-Wilson Airport.
- (b) AIRPORT ELEVATION - The highest point of landing areas, measured in feet above mean sea level is 158.0'.
- (c) APPROACH SURFACE- A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section (E). In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (d) APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES- These zones are set forth in Section 12-6.2.
- (e) BOARD OF ADJUSTMENT - A Board consisting of eight (8) members appointed by the Nash County Board of Commissioners as provided in Chapter 63, Article 4, of the North Carolina General Statutes.
- (f) CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (g) HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (h) HEIGHT - For the purpose of determining the height limits in all zones set forth in this

Section, the datum shall be mean sea level elevation unless otherwise specified.

(i) HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

(j) LARGER THAN UTILITY RUNWAY- A runway that is constructed for and intended to be used by propeller driven or jet powered aircraft of greater than 12,500 pounds maximum gross weight, and jet powered aircraft.

(k) NONCONFORMING USE- Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this Section or an amendment thereto.

(l) NON PRECISION INSTRUMENT RUNWAY - A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or are types of navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(m) OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, set forth in Section (E).

(n) PERSON - An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

(o) PRECISION INSTRUMENT RUNWAY - A runway having an existing or planned instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document approved by the Nash County Board of Commissioners.

(p) PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 1,000 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(q) RUNWAY- A defined area on an airport prepared for landing and takeoff of aircraft along its length.

(r) STRUCTURE - An object, including but not limited to, a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

(s) TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of

the approach surface and at 90-degree angles to the extended runway centerline.

(t) TREE - Any object of natural growth.

(u) VISUAL RUNWAY- A runway intended solely for the operation of aircraft using visual approach procedures.

12.6.2 Airport Height Limitation Zones

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Rocky Mount Wilson Airport. Such zones are shown on the official zoning map described in Section 9-2.1. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established subclassifications of the Airport Overlay District and defined as follows:

- (1) PRECISION INSTRUMENT RUNWAY APPROACH ZONE (AO-A1) - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (2) RUNWAY LARGER THAN UTILITY WITH A VISIBILITY MINIMUM AS LOW AS 3/4 MILE NONPRECISION INSTRUMENT APPROACH ZONE (AO-A2) - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (3) TRANSITIONAL ZONES (AO-T) - The transitional zones are the areas beneath the transitional surfaces.
- (4) HORIZONTAL ZONE (AO-H) The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (5) CONICAL ZONE (AO-C). The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

12.6.3 Airport Height Limitations

Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the applicable height herein established for such zones. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (1) Precision Instrument Runway Approach Zone (AO-A 1). Slopes fifty (50) feet outward for each foot upward; beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- (2) Runway Larger Than Utility With A Visibility Minimum As Low As $\frac{3}{4}$ Mile Non-Precision Instrument Approach Zone (AO-A2) - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (3) Transitional Zone (AO-T) - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, which is 308 feet above, mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline from the edge of the approach surface.
- (4) Horizontal Zone (AO-H) - Established at a height of 150 feet above the airport elevation or an elevation of 308 feet above mean sea level.
- (5) Conical Zone (AO-C) - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 160 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or an elevation of 508 feet above mean sea level.
- (6) Excepted Height Limitations - Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height, which is below the limitations set forth in this Section.

12.6.4 Airport Zoning Related to Sanitary Landfill Location

Various studies and observations have resulted in the conclusion that sanitary landfills attract birds, and that birds in the vicinity of airports create potential hazards to aircraft operations (see FAA Order SO 5200.5). Aircraft accidents have resulted when aircraft collided with low-flying birds, particularly during takeoff and landing. In order to prevent such an occurrence in Rocky Mount-Wilson Airport, the following regulations shall apply with regard to location of landfills:

- (1) No landfill shall be located within 10,000 feet from a runway of any airport.
- (2) Landfills located further than 10,000 feet from a runway of any airport but within the conical surface will be reviewed on a case-by-case basis by the Rocky Mount Wilson Airport Commission, who may in turn consult with the Federal Aviation

Administration. If in the opinion of the Airport Authority, the landfill poses a threat to safe aircraft operations, then the landfill shall not be allowed in the proposed location.

12.6.5 Use Restrictions

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

12.6.6 Nonconforming Uses

- (1) Regulations Not Retroactive - The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.
- (2) Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Rocky Mount-Wilson Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Rocky Mount-Wilson Airport Authority.

12.6.7 Permits

The zoning administrator shall not issue a zoning permit with an "AO-A1", "AO-A2", "AO-H," "AO-T" or "AO-C" area until it has been determined that the proposal upon which he is requested to act is in compliance with the terms of these regulations.

12.6.7.1 Future Uses

Except as specifically provided in (i), (ii), and (iii) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Subsection 12-6.7.4.

- (i) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (ii) In areas lying within the limits of the approach zones, no permit shall be required for any tree or structure except when such tree or structure would extend above the height limit prescribed for such approach zones.
- (iii) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established in Subsection 12-6.3.

12-6.7.2 Existing Uses

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Section or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

12-6.7.3 Nonconforming Uses Abandoned or Destroyed

Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 60 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the requirements of this Section.

12-6.7.4 Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section may apply to the Board of Adjustment for a variance from such regulations in accordance with the process of Section 7-2.4

(a) FAA Approval

The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace and airport. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Additionally, the Board of Adjustment may consider no application for variance to the requirements of this Section unless a copy of the application has been furnished to the Airport Manager and the Rocky Mount-Wilson Airport Authority for advice as to the aeronautical effects of the variance. If the Airport Manager and/or the Airport Authority do not respond to the application within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(b) Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner the structure or tree in question to install, operate, and maintain, at the owners expense, such markings end lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Rocky Mount Wilson Airport Authority, at its own expense, to install, operate, and maintain the necessary markings and lights.

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APPENDIX 1: INFORMATION REQUIRED WITH APPLICATIONS

A-1-1 Number of Review and Filing Copies to be Submitted

Type of Map or Plan	Review # of Prints for TRC	Planning Board Review and Filing (after approval)		
		# of Prints for PB	# of Mylars	# of Mylar As-Builts
Minor Plat	6	10	1	-
Sketch Plan	6	10	-	-
Preliminary Plat	6	10	-	-
Final Plat	6	10	1	1
Plot Plan	2	2	-	-
Site Plan	2 Sets	10 Sets	-	-
Site Layout Water, Sewer and Drainage Utility Landscaping Plan				
Street and Utility Construction Plans and Profiles	As required by NCDOT and the applicable utility provider			

A-1-2 Required Information on Minor and Major Subdivisions, Sketch Plans, Plot Plans, and Site Plans

Submission of all maps and/or plans shall contain the following information before submission to the planning department for review. The information required on sketch plans is delineated in Section 10-3.2(C). An 'X' indicates required information. Information required on site plan sheets is indicated by the following codes: 'A' to be included on all sheets, 'S' to be included on Site Plan sheet, 'U' to be included on Utility sheet, and 'L' to be included on Landscaping sheet. Depending on the scale or complexity of the development, any or all the sheets may be combined. Additional information may be required for approval of the site plan. The Zoning Administrator may waive items required if it is judged that they are not necessary to complete the review.

Information	Type of Map or Plan					
	Minor and Major Subdivisions			Plot Plan	Site Plan	Sketch
	Minor Plat	Preliminary Plat	Final Plat			
Map or plan size: Maps submitted shall not exceed a maximum size of 24" by 36"		X			A	X
Maps or plans may be drawn on more than one sheet with appropriate match lines	X	X	X		A	X
Standard 18" by 24" sheet for plats to be recorded, minimum 1-1/2" border on the left side and a minimum 1/2" border on all other sides; or as required by the Nash County Register of Deeds	X		X			
Original drawn on material as required by the Nash County Register of Deeds	X		X			
Plan Endorsement Block		X			A	X
Title Block containing: Name of Development	X	X	X		A	X

Name of map or plan (minor plat, preliminary plat, etc.)	X	X	X		A	X
Owner's name with address and daytime phone number	X	X	X	X	A	X
Location (including address, township, county and state)	X	X	X	X	A	X
Date(s) map(s) prepared or revised	X	X	X	X	A	X
Scale of drawing in feet per inch. Drawing shall be at a scale of not less than 1" equal to 100'. If all lots are greater than 3 acres, 1" =200' scale may be used.	X	X	X		A	X
Scale of drawing in feet per inch. Drawing shall be at a scale of not less than 1" equal to 40'. If all lots are greater than 3 acres, only the building site needs to be shown				X		
Bar graph	X	X	X		A	X

Name, address, and telephone # of preparer of map (licensed surveyor, engineer, or architect)	X	X	X		A	X
Developer's name, address, and daytime phone number (if different from owner's)	X	X	X		A	X
Zoning district(s) within the property and adjacent properties	X	X	X	X	S, L	X
Existing land use within the property and on adjacent properties	X	X			S, L	
Plat book or deed book reference	X	X	X	X	S	
Names of adjoining property owners (or subdivisions or developments of record with plat book reference)	X	X	X		S	X
Tax map, block, and parcel(s) number	X	X	X	X	S	
Vicinity map showing location of site relative to surrounding area (typically drawn in upper right hand corner), at a scale of 1" = 2,000'	X	X	X		S	X
Corporate limits, county lines, and other jurisdiction lines, if any, on the tract	X	X	X	X	A	X

Existing Structures, wells, septic tanks	X	X		X		X
Registration and seal of land surveyor	X		X		S	
North arrow and orientation (north arrow shall not be oriented towards bottom of map)	X	X	X	X	A	X
Source of property boundaries signed or sealed by registered land surveyor, architect, landscape architect, or engineer		X			S	
Boundaries of the tract to be subdivided or developed: distinctly and accurately represented and showing all distances	X	X	X		A	
located to nearest street intersection (within 300') or USGS (within 2000')	X	X	X		S	
showing locations of intersecting boundary lines or adjoining properties	X	X	X		S	
Location and descriptions of all monuments, markers, and control corners	X		X		S	

Existing property lines on tract to be subdivided. If existing property lines are to be changed, label as 'old property lines' and show as dashed lines	X	X	X		S	X
Dimensions, location and use of all existing and proposed buildings; distances between buildings measured at the closest point; distance from buildings to the closest property lines; building setback lines. A dashed line should be shown on the plat outlining all known structures, ponds or lakes removed or filled.	X	X		X	S	X
The name and location of any property or building on the National Register of Historic Places or locally designated historic property	X	X	X		S	
Railroad lines and right-of-ways	X	X	X	X	A	X
Water courses, ponds, lakes or streams	X	X	X		A	
Marshes, swamp and other wetlands		X			A	X
Areas to be dedicated or reserved for the public or a local jurisdiction		X	X		A	X

Areas designated as common area or open space under control of an Owners' Association	X	X	X		S, L	
Proposed building locations for zero lot-line developments	X	X		X	S	
Location of manufactured dwelling spaces and whether they are designated for single or double wide dwellings					S	
Typical diagram of manufactured dwelling space					S	
Location of designated recreation areas and facilities		X	X		S	
Location of floodway and floodway fringe from Flood Hazard Boundary Maps and cross-section elevations	X	X	X	X	A	
Existing and proposed topography of tract and 100' beyond property showing existing contour intervals of no greater than 5' (2' where available) and labeling at least two contours per map and all others at 10' intervals from sea level		X			A	10'
Proposed lot lines and dimensions	X	X	X		A	

Square footage of all proposed lots under an acre in size and acreage for all lots over an acre in size	X	X	X		S	X
Site calculations including: acreage in total tract	X	X	X	X	S	X
acreage in public open space		X	X		S, L	X
total number of lots proposed	X	X	X		S	X
linear feet in roads		X	X		S	X
area in newly dedicated right-of-way		X	X		S	X
Lots sequenced or numbered consecutively	X	X	X		S	X
Road address as assigned by Nash County for each new lot	X		X			
Show dimensions and location of all parking areas, total provided and minimum required number of parking spaces, driveways, service areas, off-street loading facilities and pedestrian walkways				X	S, L	X
Within parking areas, clearly indicate each parking space, angle of parking and typical size				X	S	X

Road data illustrating: Existing and proposed rights-of-way lines within and adjacent to property (shown with a cross-hatch pattern)	X	X	X	X	S	
Existing and proposed rights-of-way within and adjacent to property showing: total right-of-way width dimension	X	X	X		S	X
right-of-way width dimension from centerline of existing public roads	X	X	X	X	S	X
Existing and proposed roads showing: pavement or curb lines		X			S	X
pavement width dimension (face-to-face)		X			S	X
cul-de-sac pavement radius		X			S	X
existing and proposed road names	X	X	X	X	A	X
Road profiles		X				

Location, dimension and type of all easements, roads within 400'	X	X	X	X	A	X
Utility Layout Plan showing connections to existing systems, line sizes, material of lines, location of fire hydrants, blowoffs, valves, manholes, catch basins, force mains, etc. for the following types of utility lines: sanitary sewer		X		X	U	X
A set of as built drawing ar to be submitted that include the following: water- show hydrants, valves, meters, blow offs, booster pumps, etc. Sewer- show manholes, taps, air release valves, pump stations, etc.			X			
water distribution		X		X	U	
natural gas, electric, cable TV, etc.		X		X	U	
Stormwater Management Plans for property located within a watershed protection overlay district or the TPO : location of public water supply watershed boundaries	X	X	X	X	A	

area to be disturbed with number of graded acres and percentage noted	X	X		X	U	
maximum allowable built-upon area for each lot or tract (if applicable)	X	X	X	X	S	X
total impervious surface area, including roads, roofs, patios, parking areas, sidewalks and driveways	X	X		X	U	X
Permanent watershed <i>or Tar-Pamlico</i> protection controls including wet detention ponds, maintenance and access easements and natural filtration and infiltration areas	X	X	X	X	U	X
location and width of required buffer areas <i>and maintenance of diffuse flow</i>	X	X	X	X	U	X
Nutrient calculation worksheets	X	X	X	X		X
Peak flow calculations	X	X	X	X		X
Off-site approach if proposed	X	X	X	X	U	X

Maintenance Plan, Draft Agreement and Financial Surety		X	X			
stormwater network, including swales, culverts, inlet and outlet structures with grades, elevations, dimensions and hydraulic calculations	X	X		X	U	
A set of as built drawing ar to be submitted that include the following: Stormwater-need to show anything vilible from the sirface of the land.			X			
Evidence of Notification to US Army Corps of Engineers of Earth-Disturbing Activities in Wetlands, if applicable	X	X			X	
Landscaping Plan shall include: Location of any required planting yard and/or parking Lot plantings		X			L	
Location and screening of dumpsters/com pactors					L	

Location, species, size, number, spacing, height of trees and shrubs in required planting areas. (If existing vegetation is to be preserved, indicate approximate height and species mix)					L	
Size of planting yard, walls, berms and fences		X			L	
Provisions for watering, soil stabilization, plant protection and maintenance access					L	
Location and description of barriers to protect any vegetation from damage both during and after construction					L	
Existing and proposed signs (location, height and area)		X			S	X
Location, dimensions and details of proposed clubhouses, pools, tennis courts, tot lots or other common area recreation facilities		X			S	X

Front, side and rear elevations of proposed building(s)					If required by the Board of Commissioners	
Certificates and Endorsements (See Appendix A-2 for wording): Certificate of Survey Accuracy signed by surveyor and attested by Notary Public	X		X			
Certificate of Ownership	X					
Certificate of Ownership and Dedication			X			
Certificate of Minor Plat Approval	X					
Certificate of Preliminary Plat Approval		X				
Certificate of Final Plat Approval			X			
Certificate of Approval by Division of Highways of the North Carolina Department of Transportation			X			
Certificate stating that no approval is required by Division of Highways of the NC Department of Transportation			X			

Certificate of Utilities Approval			X			
Certificate of Health Department Approval	X		X			
Certificate of Purpose for Plat as required by NCGS 47-30	X		X			
Private Roads, Easement Disclosure Statement			X			
Public Water Supply Watershed Protection Statement	X		X			
Review Officer Certification	X		X			
Acknowledgment of Recordation of Nonevaluated/Nonbuildable Lots (if applicable)	X		X			

A-1-3 Documents and Written Information in Addition to Maps and Plans

In addition to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information shall be provided. The following is a representative list of the types of information or documents that may be requested at the time of plat or plan submission:

Information	Minor and Major Subdivisions			Plot Plan	Site Plan	Sketch
	Minor Plat	Preliminary Plat	Final Plat			
Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.	X	X			X	X
Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided.		X			X	X
Detailed descriptions of recreational facilities to be provided.		X			X	
Legal documentation establishing homeowners' associations or other legal entities responsible for control over required common areas and facilities.			X		X	
Bonds, letters of credit, or other surety devices.			X		X	
A traffic impact study performed and prepared by a qualified transportation or traffic engineer or planner.		X			X	X
Time schedules for the completion of phases in staged development.		X			X	X

The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.		X			X	
If any road is proposed to intersect with a state maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulations.					X	
Proposed deed restrictions or covenants to be imposed upon newly created lots.		X				
Public water supply watershed and soil type information						X

APPENDIX 2: CERTIFICATES

A-2-1 Required Certificates and Statements

Type of Certificate or Statement	Minor Plat	Major Plat
Certificate of Ownership	X	
Certificate of Ownership and Dedication		X
Certificate of Minor Plat Approval	X	
Certificate of Preliminary Plat Approval		X
Certificate of Final Plat Approval	X	X
Certificate of Survey and Accuracy	X	X
Division of Highways District Engineer Certificate		X
Private Roads Disclosure Statement		X
Health Department Certificates	X	X
Utilities Certificate		X
Public Water Supply Watershed Protection Statement	X	X
Certificate of Purpose of Plat	X	X
Certificate of Exception	X	X
Acknowledgment of Recordation of Nonevaluated/Nonbuildable Lot(s)	X	X
Review Officer Certification	X	X

A-2-2 Wording for Map Certificates and Statements

(A) Certificate of Ownership (For Use With Minor Plats Only)

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is within the subdivision regulation jurisdiction of Nash County, and that I (we) freely adopt this plan of subdivision. I (We) further certify that the residual tract on this plan cannot be further subdivided within two years of the date of recordation unless a sketch plan and/or preliminary plat and final plat are submitted for the entire remainder.

Owner

Date

Owner

Date

(B) Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of Nash County, that I (We) hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as roads, rights-of-ways, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Nash County Board of Commissioners in the public interest.

Owner

Date

Owner

Date

(C) Certificate of Minor Plat Approval

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public roads or any change in existing public roads, that the subdivision shown is in all respects in compliance with the Nash County Unified Development Ordinance, and that therefore this plat has been approved by the Nash County Planning Director, subject to its being recorded in the Nash County Registry within sixty days of the date below.

Planning Director

Date

(D) Certificate of Preliminary Plat Approval

I hereby certify that the _____ approved on the _____ day of _____, _____ the preliminary plan of subdivision as shown on this plat. Preliminary approval is valid for a period of 12 months from the above date or as established under the vested rights procedures, if applicable.

Planning Director

Date

(E) Certificate of Final Approval

(1) I hereby certify that the subdivision depicted hereon has been granted final approval pursuant to the Nash County Unified Development Ordinance subject to its being recorded in the Office of Register of Deeds within sixty days of the date below.

Planning Director

Date

(2) I hereby certify that streets, utilities and other improvements have been installed in an acceptable manner and according to County specifications in the subdivision depicted hereon or that a performance bond or other sufficient surety in the amount of \$_____ has been posted with Nash County to assure completion of required improvements.

Planning Director

Date

(F) Certificate of Survey and Accuracy

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this ____ day of _____, A.D., 19_____.

Seal or Stamp of Surveyor

Surveyor

Registration Number

(G) Division of Highways District Engineer Certificate

I hereby certify that the streets as depicted hereon are/are not consistent with the requirements of the North Carolina Department of Transportation.

District Engineer

Date

(H) Private Roads Disclosure Statement

The following statement shall be placed on all subdivision plats which include private roads:

(1) The maintenance of roads designated on this plat as private shall be the responsibility of property owners within this development having access to such roads. Private roads as shown hereon were not constructed to the minimum standards required to allow their inclusion, for maintenance purposes, on the North Carolina highway system. Neither Nash County nor the North Carolina Department of Transportation will maintain a private road.

(2) The maintenance of roads designated on this plat as easements shall be the responsibility of property owners within this development having access to such easement(s). Easements as shown hereon were not constructed to the minimum standards required to allow their inclusion, for maintenance purposes, on the North Carolina highway system. Neither Nash County nor the North Carolina Department of Transportation will maintain a easements.

(I) (1) Certification of Subdivision and Soils Report Review By The Nash County Health Department

The following statement shall be placed on all subdivision plats which include buildable lots that do not have public service available to them:

The Nash County Health Department has reviewed the plat and the soils report prepared by _____ for _____ subdivision and finds that the soils report has been prepared in accordance with the criteria established by the Nash County Health Department and that the soils report indicates that the lots shown on the plat appear to be able to accommodate sewage disposal systems. Please note that the Nash County Health Department has reviewed the soils report of _____ only and this does not represent or constitute the evaluation or approval for issuance of an improvement permit for any lot in the subdivision. Final site approval for issuance of improvement permits or authorization for wastewater system construction is based on regulations in force at the time of permitting and is dependent on satisfactory completion of individual site evaluations by the Nash County Health Department following application for an improvement permit detailing a specific use and siting.

Nash County Health Director or
Authorized Representative

Date

(2) Certification of Subdivision By The Nash County Health Department

I hereby certify that lots shown on this plat for _____ subdivision have been evaluated for space and soil requirements for sewage disposal and water supply systems when applicable, by the Nash County Health Department. Based on this review, an improvement permit has been issued for a specific use and siting. Any change in the intended use or siting, or site, or soil alteration, will subject the permit to revocation. No construction on any lot shall commence until the Nash County Health Department has also issued an authorization for wastewater system construction.

Nash County Health Director or
Authorized Representative

Date

(J) Utilities Certificate

I hereby certify that the _____
improvements have been installed in an acceptable manner and in accordance
with the requirements of the Nash County Unified Development Ordinance.

Signature of Authorized Agent

Date

(K) Public Water Supply Watershed Protection Statement

The following statement shall be placed on all subdivision plats which include
property located within a watershed protection overlay district:

All or portions of the property contained in this subdivision are located within a
Public Water Supply Watershed. Additional development restrictions regarding
such matters as residential density, maximum impervious surface area, and
stormwater control measures may apply to this property. Any engineered
stormwater controls shown on this plat are to be operated and maintained by the
property owners and/or a property owners' association pursuant to the Operation
and Maintenance Agreement filed with the Nash County Register of Deeds.

(L) Certificate of Purpose of Plat

The final plat shall contain one of the following statements, signed and sealed by
the plat preparer:

- a. This survey creates a subdivision of land within the area of a county or
municipality that has an ordinance that regulates parcels of land;
- b. This survey is located in a portion of a county or municipality that is
unregulated as to an ordinance that regulates parcels of land;
- c. Any one of the following:
 1. This survey is of an existing parcel or parcels of land and does not
create a new road or change an existing road;
 2. This survey is of an existing building or other structure, or natural
feature, such as a water course;
 3. This survey is a control survey;
- d. This survey is of another category, such as the recombination of existing
parcels, a court-ordered survey, or other exception to the definition of
subdivision; or

Owner/Date

Owner/Date

Owner/Date

Witness:

Nash County Planning Staff

(O) Review Officer Certification

The following certificate shall be shown of all subdivision plats:

State of North Carolina

I, _____, Review Officer of Nash County, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

(P) Riparian Buffer Note:

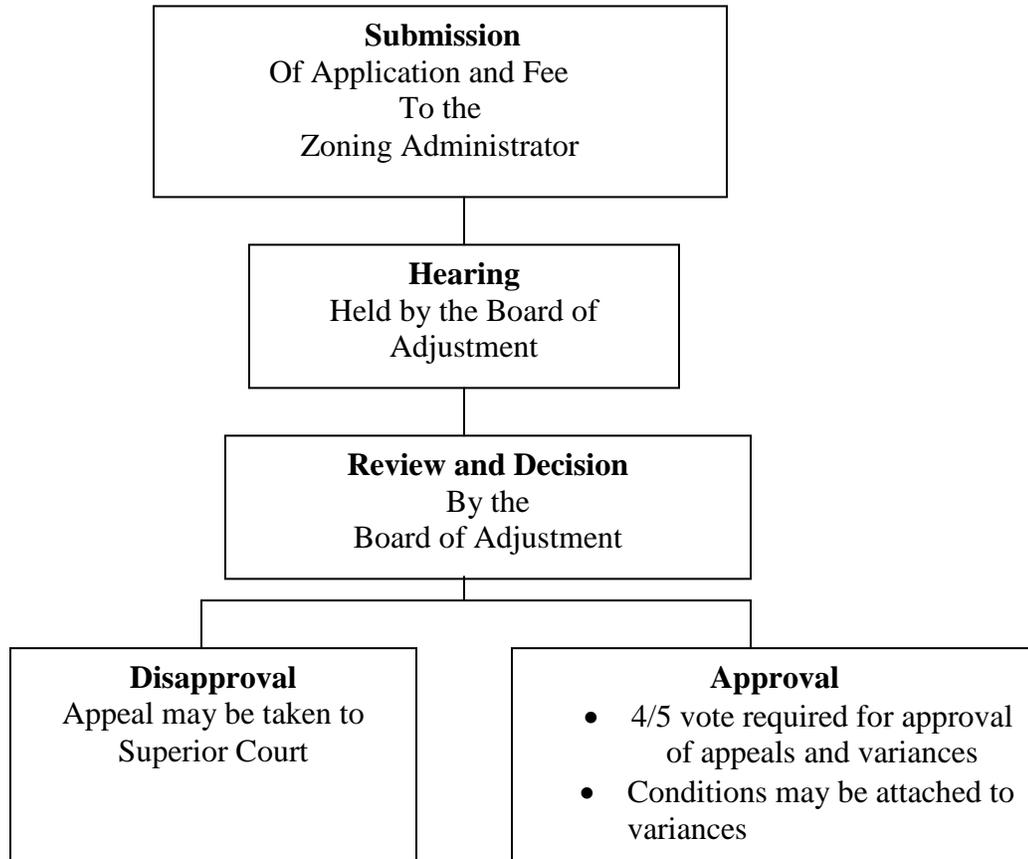
The 50 foot (Neuse / Tar Pam) riparian buffer zone is measured from top of bank of ditch or creek. No activity is permitted in Zone 1 (1st 30'). Limited activity is allowed in Zone 2 (20'). Owner/Developer to consult G.S. 15A NCAC 2B.0259 before any disturbance within the buffer zone or call NCDENR, Division of Water Quality, Surface Water Protection Section for official determination.

APPENDIX 3: REQUIRED INFORMATION FOR OBTAINING A ZONING, SIGN, SPECIAL USE AND CONDITIONAL USE PERMIT

Information	Zoning	Sign	Special Use Conditional Use
Plot Plan or Site Plan	X	X	X
Address of Job	X	X	X
Name, Address and Telephone of...			
Property Owner	X	X	X
Building Contractor	X	X	X
Name of Subdivision or Development	X		X
Plat Book and Page Number	X		X
Tax Map Number	X	X	X
Township	X	X	X
Type of Sewage Disposal (i.e. Public Sewer, Septic Tank, etc.)	X		X
Type of Water Supply (i.e. Public Water, Private Well, etc.)	X		X
Proposed Use (i.e. single-family, church, garage, etc.)	X		X
Application Type (new construction, addition, alternation or installation)	X	X	X
Documentation of Submission of an Erosion Control Plan, if disturbing greater than one acre	X		X
Stormwater Management Plan, if located within a Watershed Protection Overlay District	X		X
Evidence of Notification to US Army Corps of Engineers of Earth-disturbing Activities in Wetlands, if applicable	X		X
Number of Stories	X		X
Electrical Power Company	X	X	X
Type of Sign		X	
Dimensions of Sign		X	
Sign Illumination (electrical contractor)		X	
Master Sign Plan, if required		X	

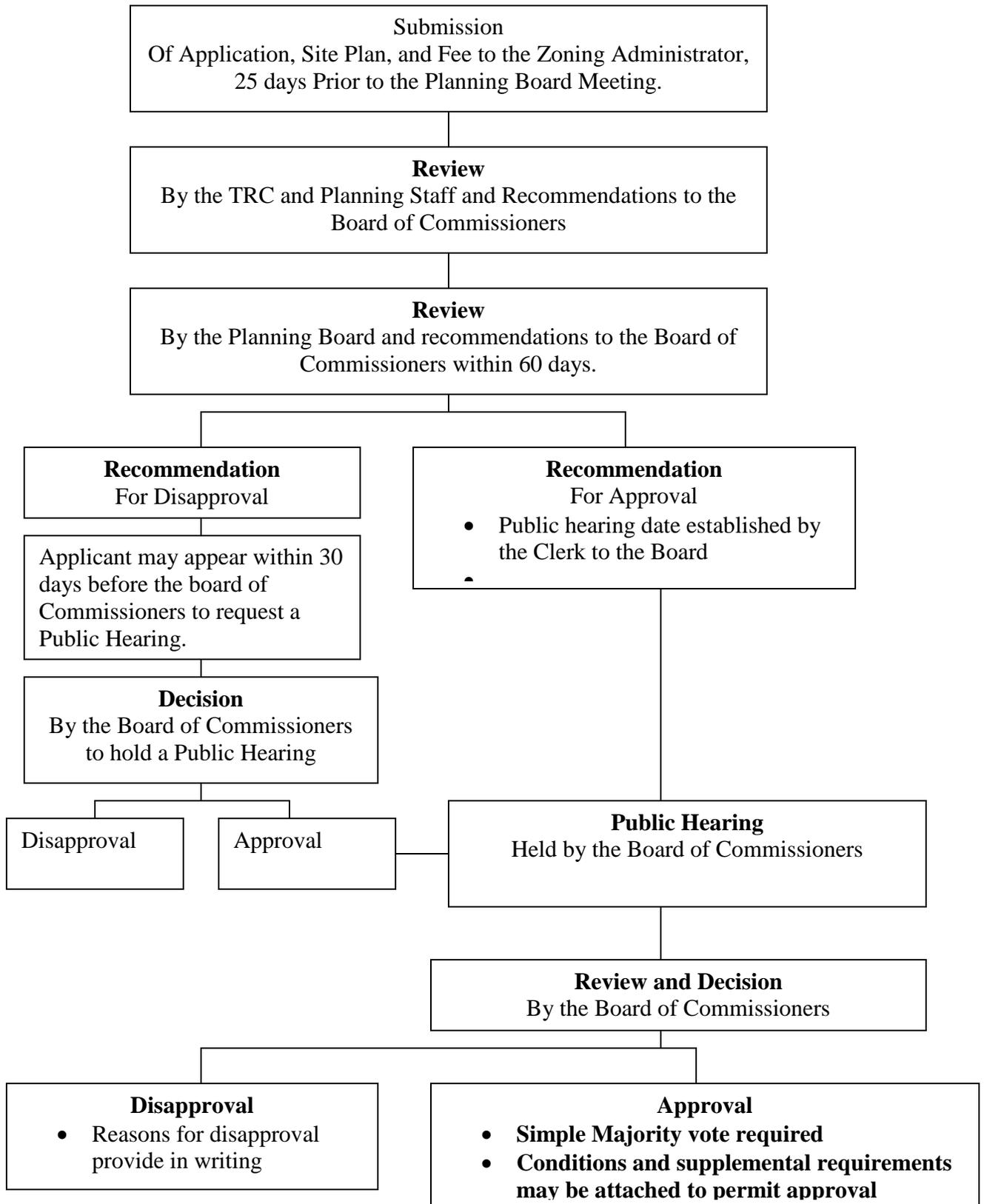
A-4-1

Administrative Appeals, Variances (except Watershed Protection Variances) and interpretations



Reference:
Article VII, Appeals, Variances, Interpretations

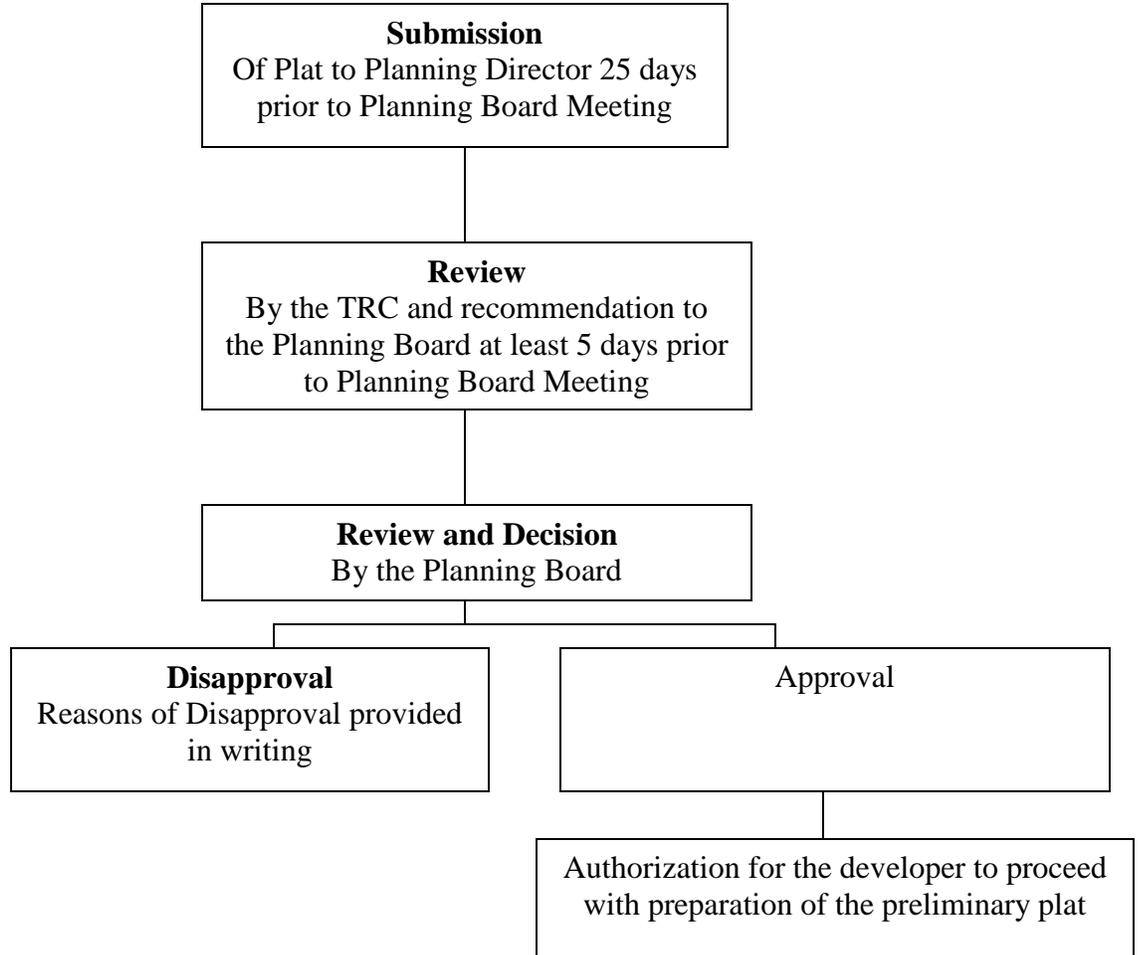
Conditional Use Permits



Reference:
Section 4-7, Special Use and Conditional Use Permits

A-4-3.1

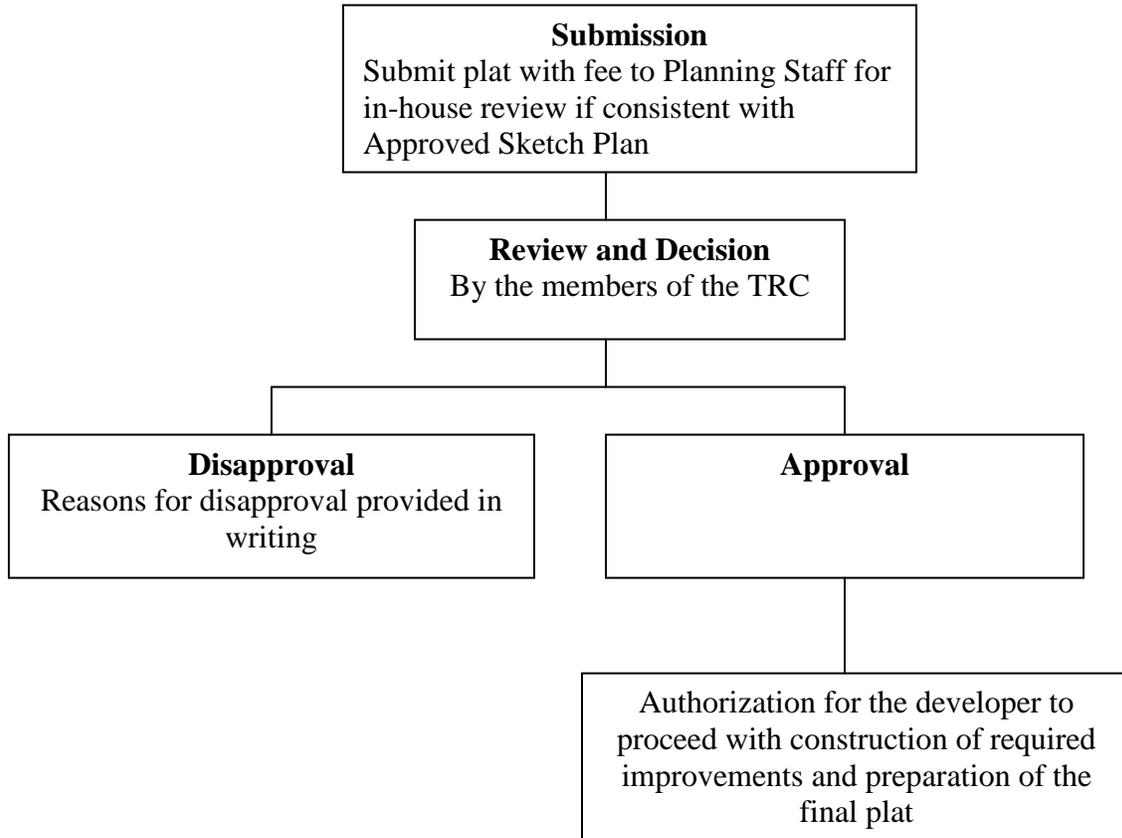
**Major Subdivision
Sketch Plan**



Reference:
Section 10-3, Major Subdivision Procedures
Appendix 1
Appendix 2

A-4-3.2

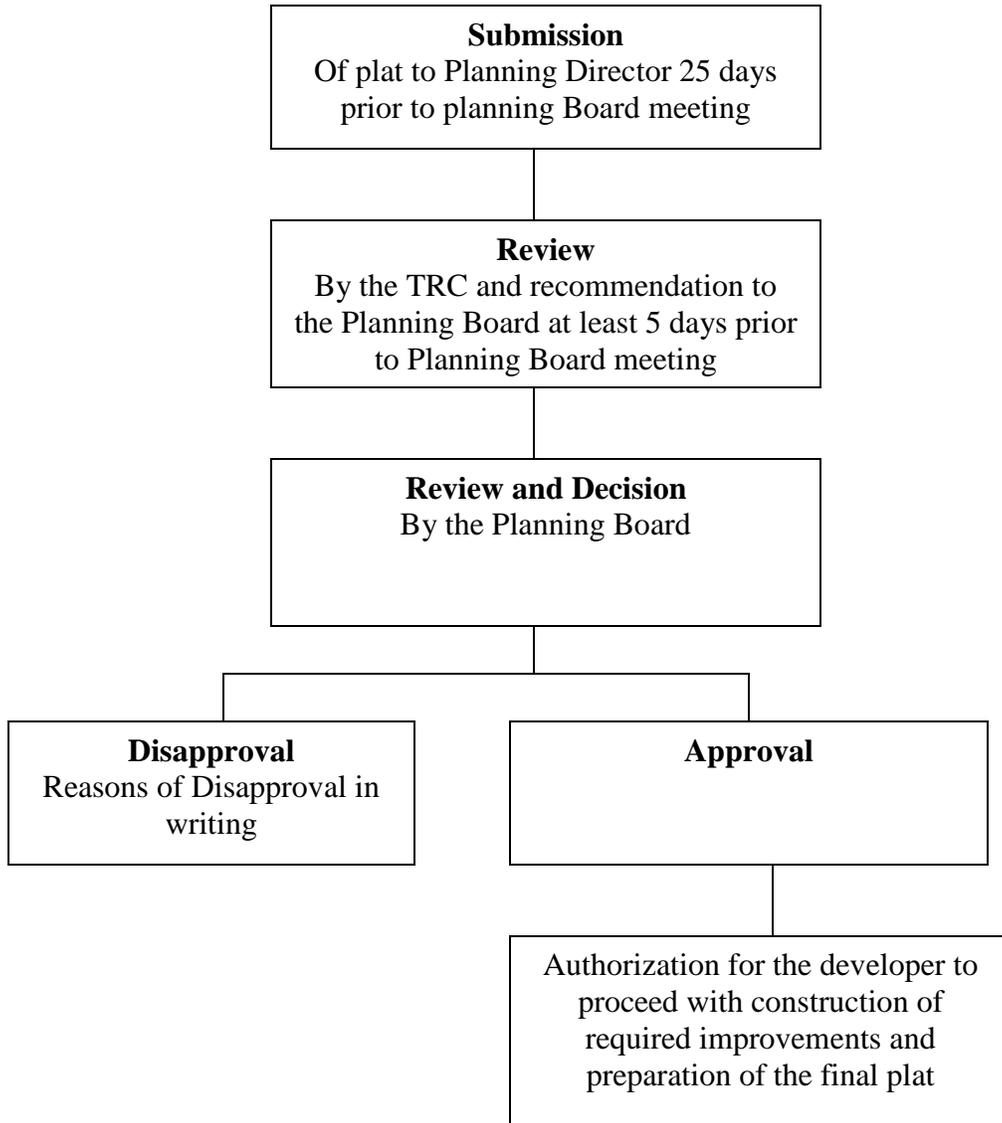
**Major Subdivision
Preliminary Plat with Approved Sketch Plan**



Reference:
Section 10-3, Major Subdivision Procedures
Appendix 1
Appendix 2

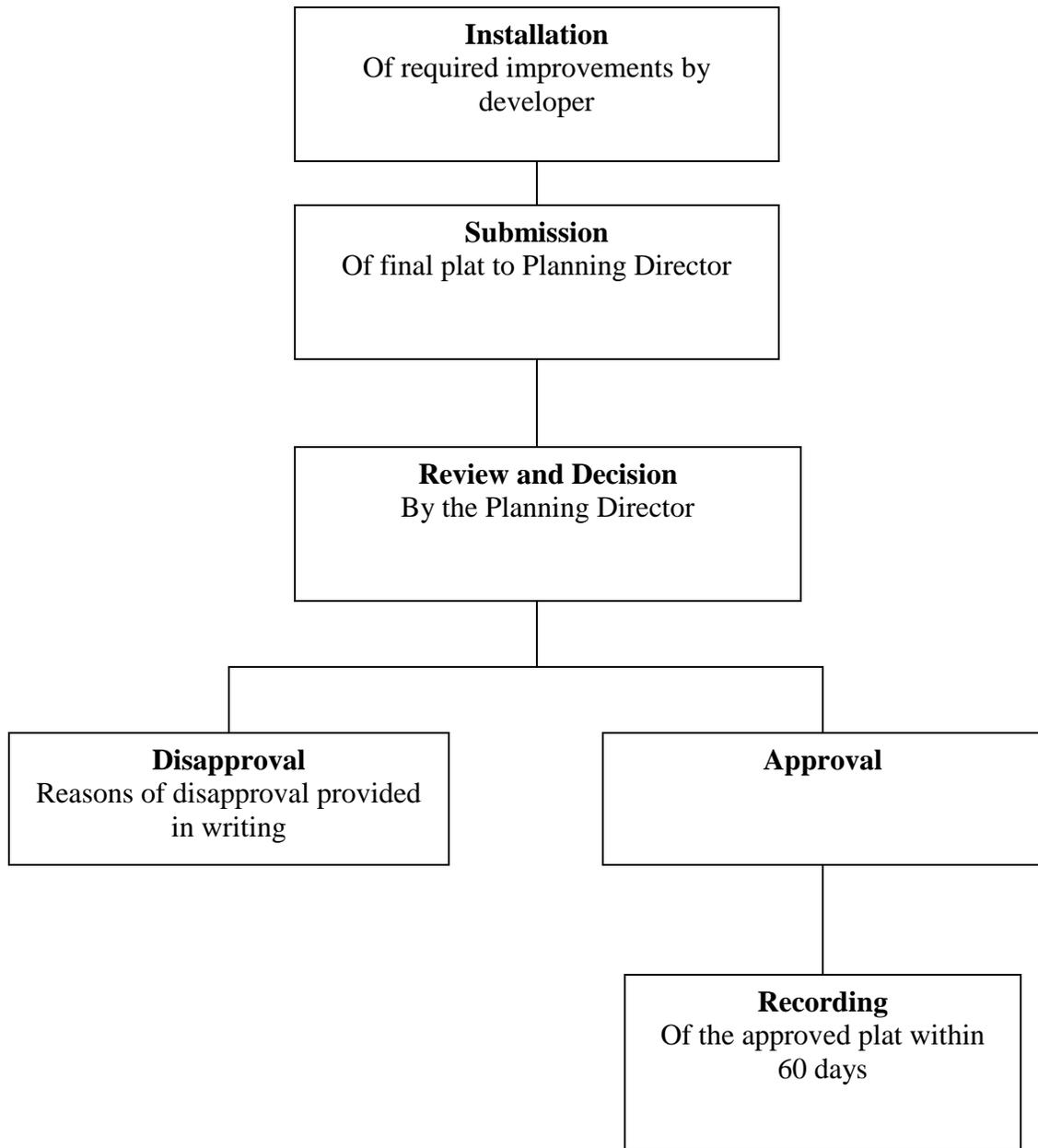
A-4-3.3

**Major Subdivision
Preliminary Plat without Approved Sketch Plan**



Reference:
Section 10-3, Major Subdivision Procedures
Appendix 1
Appendix 2

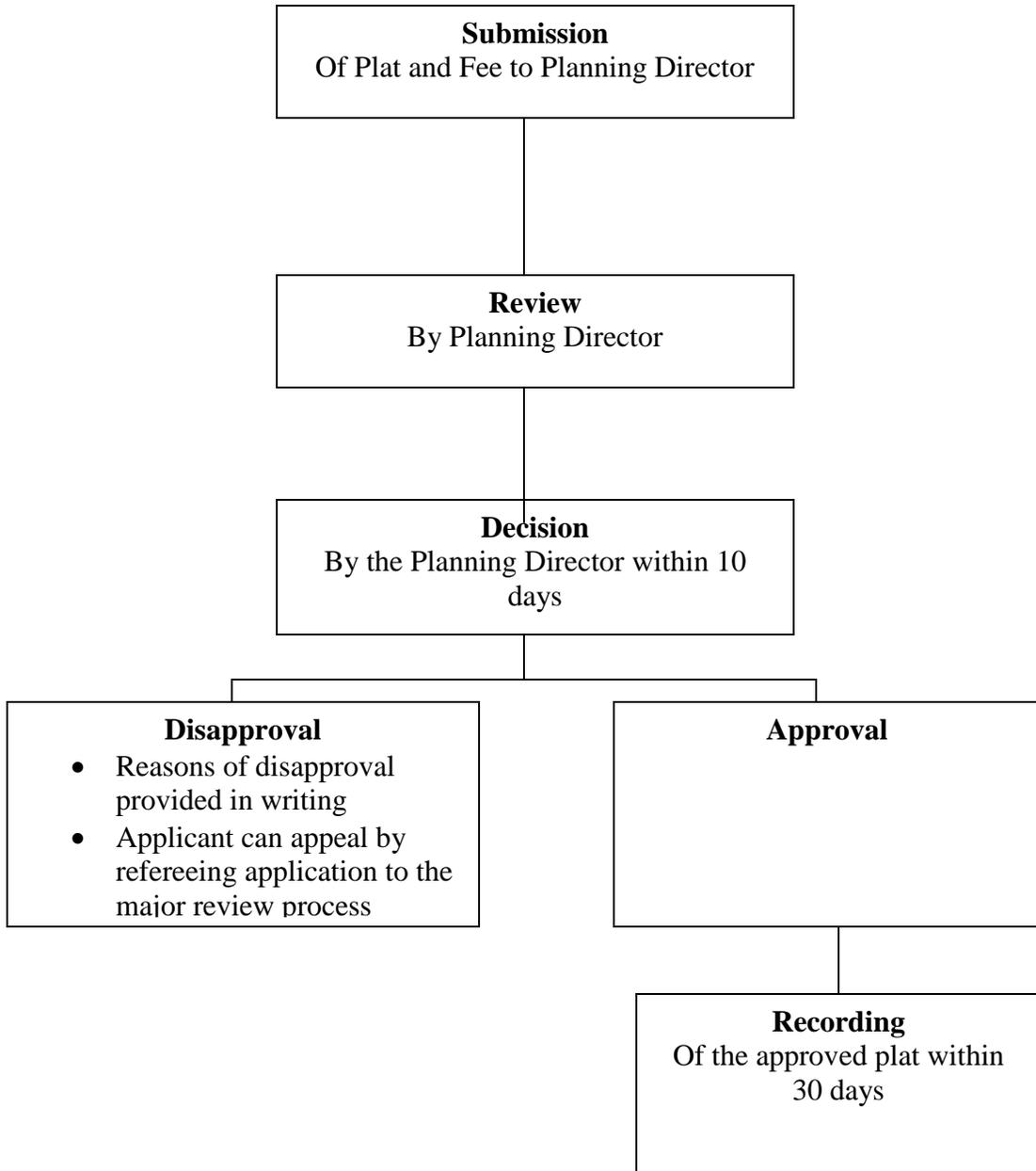
A-4-3.4
Major Subdivision
Final Plat



Reference:
Section 109-3, Major Subdivision Procedures
Appendix 1
Appendix 2

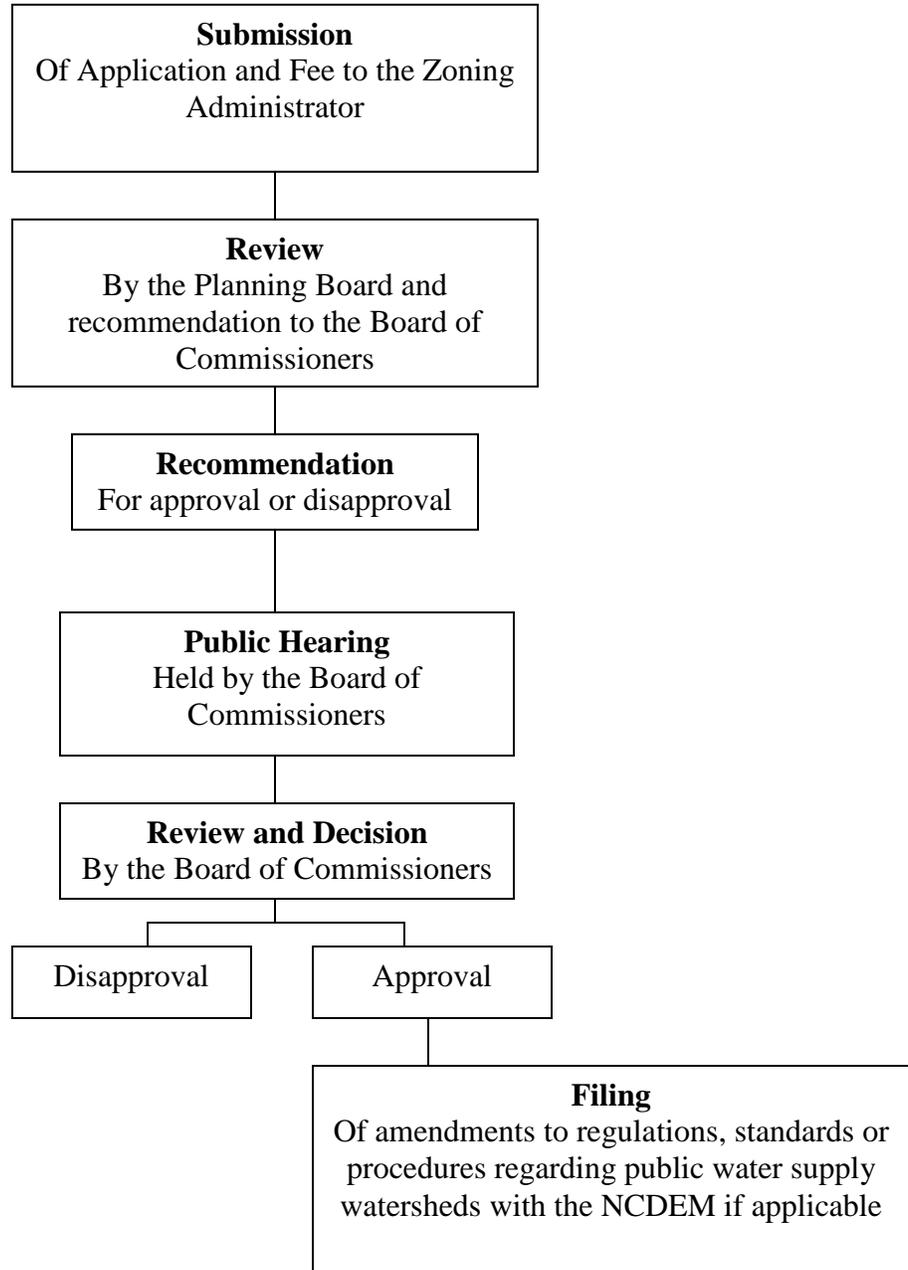
A-4-4

Minor Subdivision



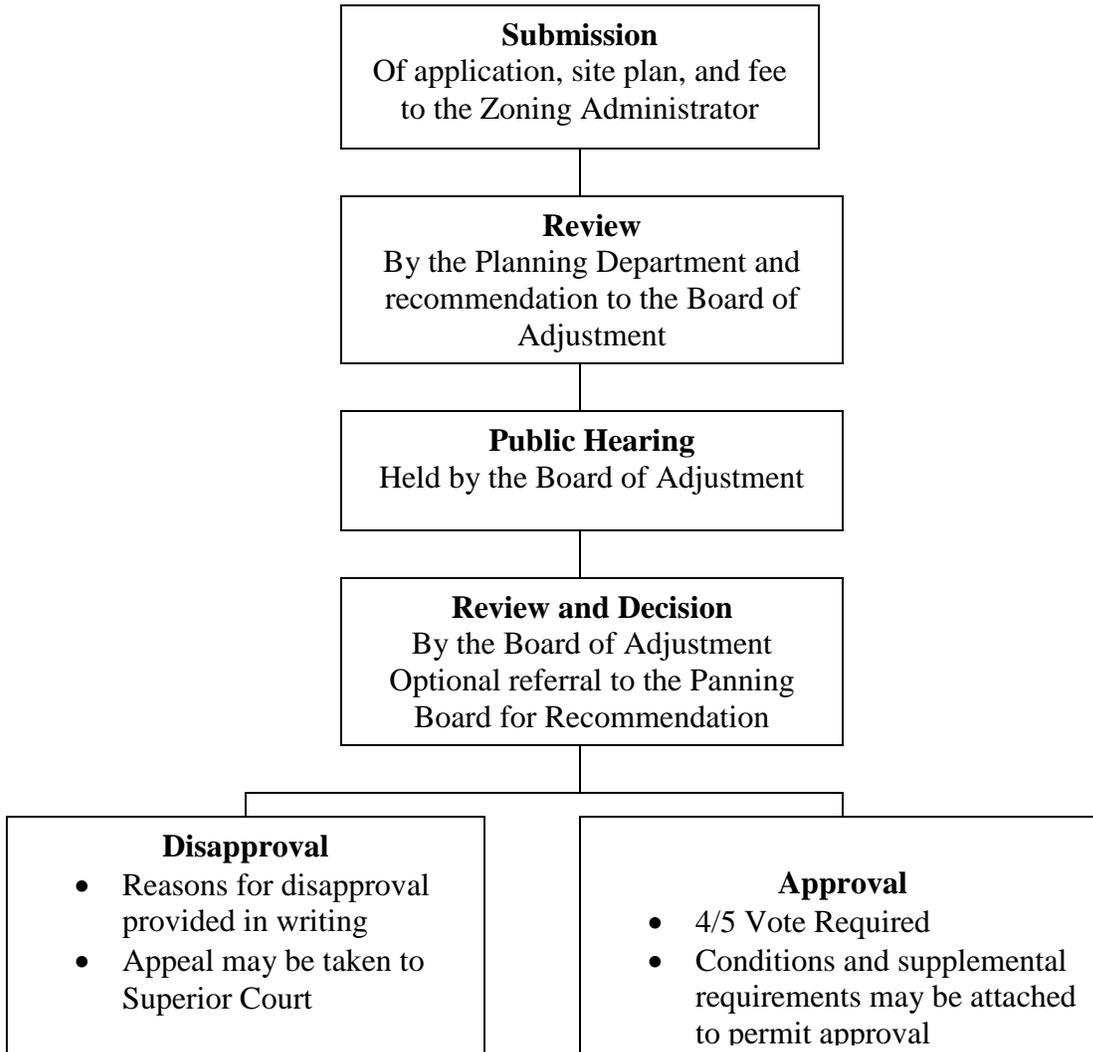
Reference:
Section 10-2, Minor Subdivision Procedures
Appendix 1
Appendix 2

A-4-5
Rezoning and Text Amendments



Reference:
Article VIII, Amendments

**A-4-6
Special Use Permits**



Reference:

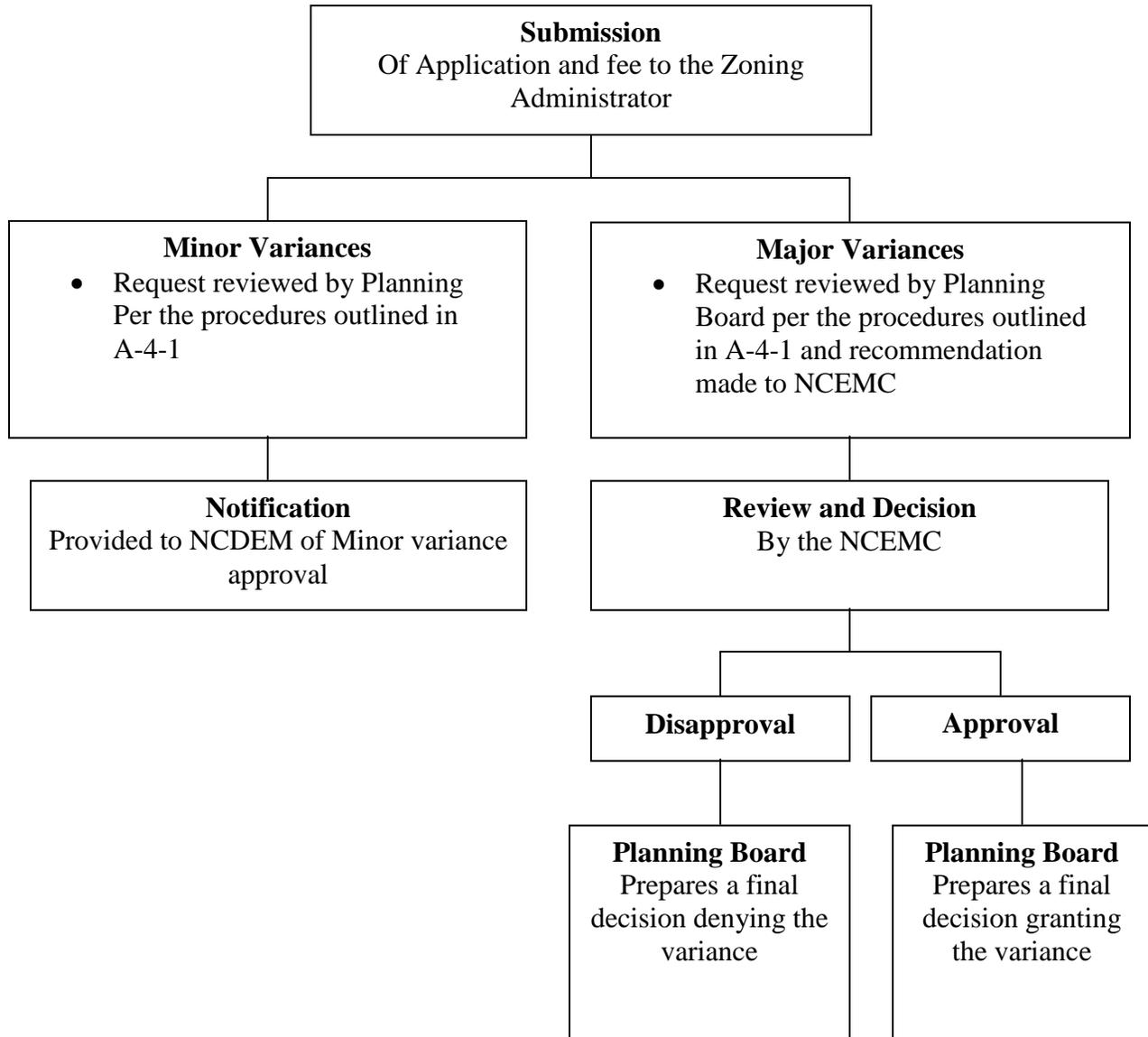
Section 4-7, Special Use Permits and Conditional Use Permits

Section 4-3, Permit Applications and Plans

Appendix 1

Appendix 3

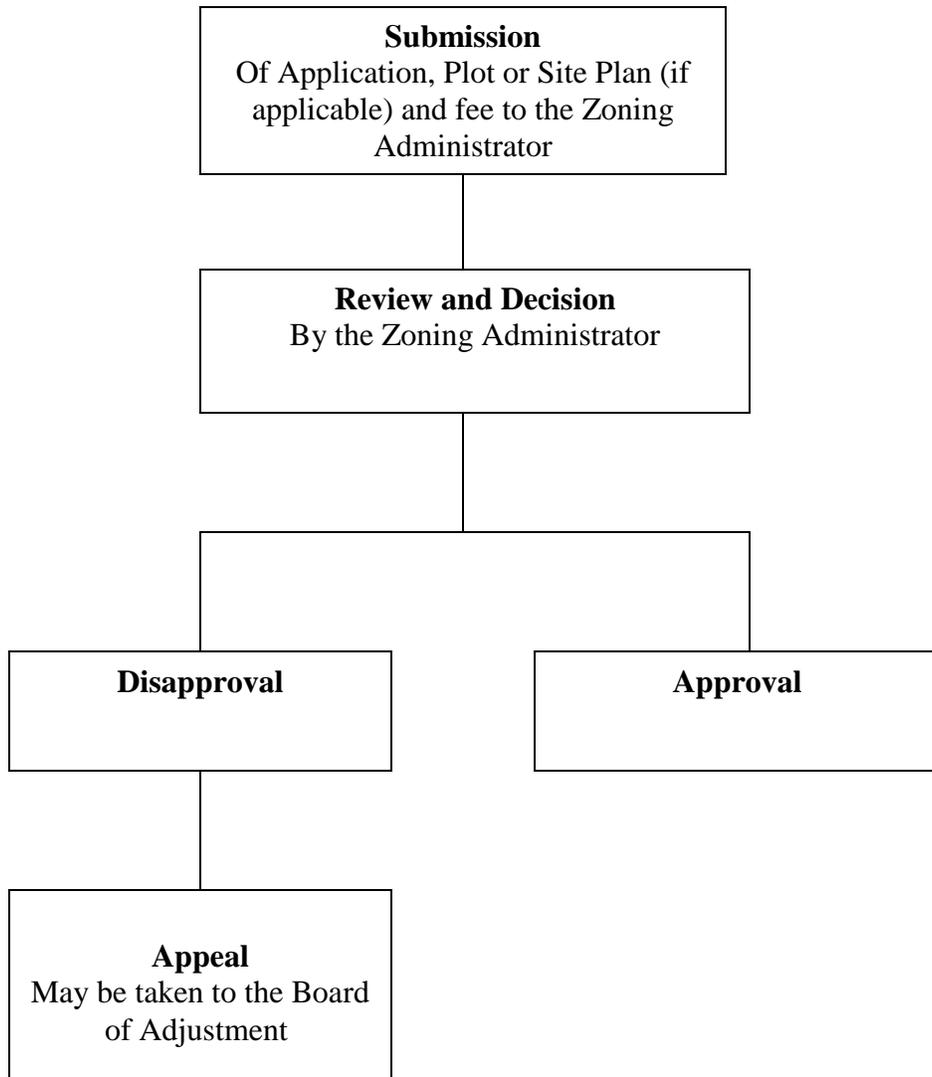
A-4-7
Variance From Watershed district Overlay Requirements



Reference:
Section 12-1.10, Variances for Watershed District Overlay Requirements

A-4-8

Zoning and Sign Permits



Reference:

Section 4-6, Zoning and Sign Permits

Section 4-3, Permit Applications and Plans

Section 4-2, Permit Exemptions

Appendix 1

Appendix 3