



LENOIR COUNTY ZONING ORDINANCE

ADOPTED: November 6, 2023



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LENOIR COUNTY, NORTH CAROLINA

ARTICLE 1. PURPOSE AND AUTHORITY

An Ordinance establishing zoning regulations in Lenoir County, North Carolina, and providing for the administration, amendment and enforcement of the Ordinance and providing for and defining the duties and powers of the Planning Board in accordance with the provisions of North Carolina General Statutes Chapter 160D, and for the repeal of all ordinances in conflict herewith.

1.1 PURPOSE

The purpose of this Zoning Ordinance shall be to promote the health, safety, morals, and the general welfare by regulating the uses of buildings, structures and land for trade, industry, residence, recreation, public activities or other purposes except farming. The size of yards, courts, and other open spaces; the location, height, number of stories, size of buildings and other structures; the percentage of lot that may be occupied and the density and distribution of population shall be regulated. Districts shall be treated and boundaries established for said purposes; and certain terms used in the Ordinance defined; and penalties provided for violation of this Ordinance, and for other purposes.

1.2 AUTHORITY AND ENACTMENT CLAUSE

The Board of County Commissioners of Lenoir County, North Carolina, pursuant to the authority granted by Chapter 160D of the General Statutes of North Carolina, does hereby ordain and enact into law the following Articles and Sections. 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.

1.3 SHORT TITLE

This Ordinance shall be known as *The Zoning Ordinance of Lenoir County, North Carolina* and may be cited as the Zoning Ordinance.

1.4 JURISDICTION

The provisions of this Ordinance shall apply throughout the County except in areas subject to municipal planning and development regulation jurisdiction. This Ordinance may be exercised within the planning and development regulation jurisdiction of a municipality, upon adoption of a formal resolution by the municipality's governing board requesting same and upon adoption of a formal resolution of the Board of Commissioners agreeing to such exercise. The Board of Commissioners reserves the right to decline, for any or no reason, the exercise of any Article of this Chapter within the planning and development regulation jurisdiction of a municipality and further reserves the right to revoke such exercise at any time upon adoption of a formal

resolution to such effect, provided that notice of such revocation shall be provided to the relevant municipality upon two years' written notice. The provisions of this Ordinance shall not affect property used for bona fide farm purposes; provided, however, that this Ordinance shall apply to the use of farm property for nonfarm purposes. The provisions of GS 160D-903 shall control whether the use of property is for "bona fide farm purposes," and the provisions of such section are incorporated herein by reference as if set forth herein verbatim. Bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. This Statute also makes clear that the use of farm property for nonfarm purposes is not exempt from zoning regulations.

1.5 EFFECTIVE DATE AND GENERAL PROHIBITION

This Ordinance shall take effect and be in force from and after its adoption by the County Commissioners of the County of Lenoir, North Carolina, this 6th day of November, 2023.

No person shall commence or proceed with development without first securing approval from the County as herein provided. An approval made pursuant to this Ordinance attaches to and runs with the land.

1.6 MINIMUM REQUIREMENTS

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity or the general welfare.

1.7 APPLICATION OF CERTAIN TERMS

- A. "Written" or "in writing" is deemed to include electronic documentation.
- B. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent.

1.8 CONFLICT WITH OTHER REGULATIONS

It is not intended by this Ordinance to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Chapter 160D of the North Carolina General Statutes is applicable to this Chapter. In the

event of any conflict between this Ordinance and Chapter 160D, the provisions of Chapter 160D shall control.

1.9 SEVERABILITY OF ORDINANCE

If for any reason one or more parts of this Ordinance are held invalid by the courts, such judgment shall not affect the remaining provisions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.10 REMEDIES

A violation of this Ordinance may be enforced as follows:

1.10.1 NOTICES OF VIOLATION

When staff determines work or activity has been undertaken in violation of this Ordinance or any approval issued hereunder, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the approval and to the landowner of the property involved, if the landowner is not the holder of the 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 County that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. A notice of violation may be appealed to the Planning Board, and the Planning Board shall follow quasi-judicial processes as set forth in [6.3.5](#) below.

1.10.2 STOP WORK ORDERS

Whenever any work or activity subject to regulation pursuant to this Ordinance is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the County that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. A stop work order may be appealed to the Planning Board, and the Planning Board shall follow quasi-judicial processes as set forth in [6.1.5](#) below. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

1.10.3 REMEDIES AND PENALTIES FOR VIOLATIONS

A. Remedies

1. This Ordinance may be enforced by any remedy provided by G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Ordinance, the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

B. Penalties

2. Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions, and safeguards established in connection with grants of variances or special use permits shall be punishable by a civil penalty as specified in the County's budget or as established by resolution of the Board of Commissioners. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the County in a civil action in the nature of debt.

1.10.4 REVOCATION OF DEVELOPMENT APPROVALS

Development approvals may be revoked by the County by notifying the holder in writing stating the reason for the revocation. The County shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the County for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section [6.4.5](#) herein. If an appeal is filed regarding a development regulation adopted by the County pursuant to Chapter 160D, the provisions of Section [6.4.5](#) herein regarding stays apply.

ARTICLE 2. INTERPRETATIONS AND DEFINITIONS

2.1 INTERPRETATION OF ORDINANCE - MINIMUM REQUIREMENTS, GREATER RESTRICTIONS GOVERN

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. 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 provisions 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.

2.2 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.

2.3 INTERPRETATION OF DISTRICT BOUNDARIES

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

2.4 DELINEATION OF BOUNDARY LINES

District boundary lines are generally intended to be along or parallel to property lines, lot lines, the center line of streets, alleys, railroads, easements, other rights of way, and creeks, streams or other water channels. In the absence of specified distances on the map, dimensions or districts shall be determined by scaling the distance on the "Official Zoning Map". Where a district boundary line divides a lot which was a single ownership at the time of passage of this Ordinance, the Planning Board may permit the extension of the regulations for either portion of the lot.

2.5 INTERPRETATION OF DISTRICT BOUNDARIES

When the street or property layout existing on the ground is at variance with that shown on the "Official Zoning Map", the Administrator shall interpret the district boundaries of this Ordinance. Any disagreement with that interpretation may be submitted as an appeal of an administrative decision.

2.6 SPLIT ZONED PARCELS

If a district boundary divides a parcel, the requirement for the district in which the greater portion of the parcel lies shall be extended to the remainder of the parcel, provided that such extension shall not include any part of such parcel which lies more than one hundred and fifty (150) feet beyond the existing district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which is located.

2.7 ANNEXATION

When a city annexes, or a city extends its jurisdiction to include, an area that is currently being regulated hereunder by the County, this Ordinance shall remain in effect until (i) the city has adopted such development regulations or (ii) a period of 60 days has elapsed following the annexation or extension, whichever is sooner. Prior to the transfer of jurisdiction, the city may hold hearings and take any other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction

2.8 INTERPRETATION OF REGULATIONS

In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of the Ordinance, the Administrator shall be responsible for interpretation and shall look to the Ordinance for guidance. Responsibility for interpretation by the Administrator shall be limited to standards, regulations and requirements of the Ordinance, but shall not be construed to include interpretation of any technical codes adopted by reference in the Ordinance and shall not be construed as overriding the responsibilities given to any commission, board, building inspector, or county officials named in other sections or articles of the Ordinance.

2.9 INTERPRETATION OF PERMITTED USES

Uses not designated as permitted uses shall be prohibited. The Administrator shall have the authority to interpret a use that is not listed, to the closest similar use, if applicable.

If the Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the Administrator shall:

- A. Ensure that the citizen is provided with a copy of the interpretation in writing.
- B. Inform the citizen of the right to appeal the decision to the Planning Board.
- C. Assist with the development of a proposed zoning text change for consideration by the Planning Board and Board of Commissioners allowing policymakers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

2.10 WORD AND TERM INTERPRETATIONS

2.10.1 WORDS AND TERMS

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

- A. Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- B. Words used in singular number include the plural and words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise.
- C. The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- D. The word "lot" includes the word "plot" or "parcel".
- E. The word "building" includes the word "structure".
- F. The word "shall" is always mandatory and not merely directory.
- G. The word "may" is permissive, however the combination "may not" is mandatory, prohibitive, and equivalent to "shall not".
- H. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".
- I. The term "zoning map" or "Official Lenoir County Zoning Map" shall mean the official zoning map(s) of Lenoir County, North Carolina.
- J. The term "Planning Board" shall mean the Zoning Board of Lenoir County, North Carolina.
- K. The word "County" shall mean the "County of Lenoir", a county corporation of the State of North Carolina.
- L. The words "Board of Commissioners", "BOC", or "County Commissioners" shall mean the "Lenoir County Board of County Commissioners".
- M. The words "Register of Deeds" shall mean the "Recorder of Deeds for Lenoir County, North Carolina".
- N. The words "ordinance" and "regulations" shall mean this "Zoning Ordinance" of the County of Lenoir, North Carolina.
- O. The word "street" includes the words "road" and "highway".
- P. Words contained in this ordinance and not defined hereinafter shall assume definitions as prescribed in Merriam-Webster's Collegiate Dictionary 11th Edition.

2.10.2 TENSE AND NUMBER

- A. The present tense includes the future tense and the future tense includes the present tense.
- B. The singular number includes the plural number and the plural number includes the singular number.

2.11 DEFINITIONS

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this article shall have the meanings herein set

forth when used in this Ordinance. If a word or phrase used in this Ordinance is not defined by this article or elsewhere in this Ordinance, to the extent such word or phrase is defined in chapter 160D, that definition shall control.

2.11.1 A

Abandoned. To cease, either intentionally or unintentionally, from actively using land, structures, or any premises for the intended or previous use, but excluding temporary periods of inactivity due to remodeling, maintaining, or otherwise improving a facility. Abandonment is often referenced to a specified time period. This definition includes “abandon”, “abandonment”, and any other tense or version of the word “abandoned.”

Abutting. Having a common border with, or being separated from such common border by, an alley or easement.

Access. A means of vehicular approach or entry to or exit from property.

Accessory Building. Any detached minor building in the rear of the main building consisting of masonry, metal or frame walls and roof, one (1) or two (2) stories in height used as an adjunct to the use of a principal building.

Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Administrator. The Administrator is currently defined as the Planning Director for the County of Lenoir County or may be reassigned by the Board of Commissioners as needed. See also **Subdivision Administrator** and **Zoning Administrator**.

Advertising display area. The advertising display surface area encompassed within any polygon that would enclose all parts of the sign by one continuous line, connecting the extreme points or edges of a sign, and using the largest sign area or silhouette visible at any one time from any one point. The structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area but all other ornamental attachments, inner connecting links, etc., that are not a part of the main supports of the sign are to be included in determining sign area.

Adult Day Care Facility. An individual, or agency, or organization providing supervision or care on a regular basis for adults who are not related by blood or marriage; and

designed and approved to accommodate more than 8 adults at a time based on State regulations; not an accessory to residential use.

Adult/Sexually Oriented Business. any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specific anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but not limited to; adult arcades, adult bookstores, adult motion picture theaters, adult theaters, massage parlors, and/or adult video rental/sale stores. ALL Adult/Sexually Oriented Businesses must also comply with Lenoir County's Sexually Oriented Business Ordinance.

Alley. A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation and not less than sixteen (16) feet wide.

Alterations. The word "alteration" shall include any of the following:

1. Any addition to the height or depth of a building;
2. Any change in the location of any of the exterior walls of a building; or
3. Any increase in the interior accommodations of a building.

Antenna. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Apartment. A room or suite of one (1) or more rooms in a multi-family dwelling intended for use as a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

Appeal. A request for a review of an interpretation of any provision of this article or a request for a review of a decision by the planning director (or designee), Planning Board or Board of County Commissioners.

Automobile Graveyard. Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, dismantled or inoperable motor vehicles and which are not being restored to operation, regardless of the length of time which individual motor vehicles are stored, or kept at said establishment or place of business

Automobile Service Station or Filling Station. A building or other structure or a tract of land where gasoline or other similar fuel, stored in tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a service or filling station: the dispensing of oil, grease, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor

wheel and brake adjustment, waxing and polishing and other minor servicing and repair including welding to the extent of installation of the items listed above; washing of automobiles, provided that no chain conveyor, blower, steam cleaner, or other mechanical device is employed, but such activities are permitted under the car wash category. All other activities shall be prohibited, including, but not limited to, upholstering work, auto glass work, painting, tire recapping, auto dismantling and auto sales, but such activities are permitted under the Automobile and small truck repair and/or body work categories.

Airport Hazard. Any structure, tree or use of land, which obstructs the airspace, required for or is otherwise hazardous to the flight of aircraft landing or taking off at the airport.

Artisan Manufacturing. Any structure with on-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment; including, woodworking, cabinet shops, ceramic studios, jewelry manufacturing, furniture refinishing or reupholstering, and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

Assembly. A site or facility open to the public or membership groups for social, civic, political, educational, or (generally passive) recreational purposes. Typical uses include assembly hall, armory, and community centers.

2.11.2 B

Bar/Nightclub. A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages for consumption on the premises. This use is also known as a nightclub, bar, tavern, or similar use; but does not include restaurant or alcohol sales for off-premises consumption.

Basement. A story of a building or structure having one-half or more of its clear height below grade.

Base Station. A structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this ordinance or any equipment associated with a tower. The term includes, but is not limited to, the following:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological

- configuration (including Distributed Antenna Systems and small-cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraph (1) and (2) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
 4. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment as described in paragraph (1) and (2) above.

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.

Board of County Commissioners. The Board of County Commissioners of Lenoir County, North Carolina.

Boarding House. A dwelling, or portion thereof, which contains rooms, provided by the owner or operator, which are designed to be used or intended to be used, let or hired out for occupancy to more than three (3) persons, whether compensation be paid directly or indirectly. By definition boarding house includes guest house or rooming house.

Bed and Breakfast Home. A business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria: a. Does not serve food or drink to the general public for pay. b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home. c. Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay. d. Is the permanent residence of the owner or the manager of the business.

Billboards (A.K.A., Off-Premises Sign). 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.

Block. A parcel of land, which is entirely surrounded by public streets, highways, railroad rights-of-way, parks or green strips, rural land or drainage channels, or a combination thereof.

Bona Fide Farm. The use of property as set forth in G.S. 160D-903.

Buffer (or Buffer Strip). A solid fence or wall, or a planted strip which shall be established and maintained in perpetuity by the owner of property when a buffer is required.

Buffer, Water Body. 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 or rivers.

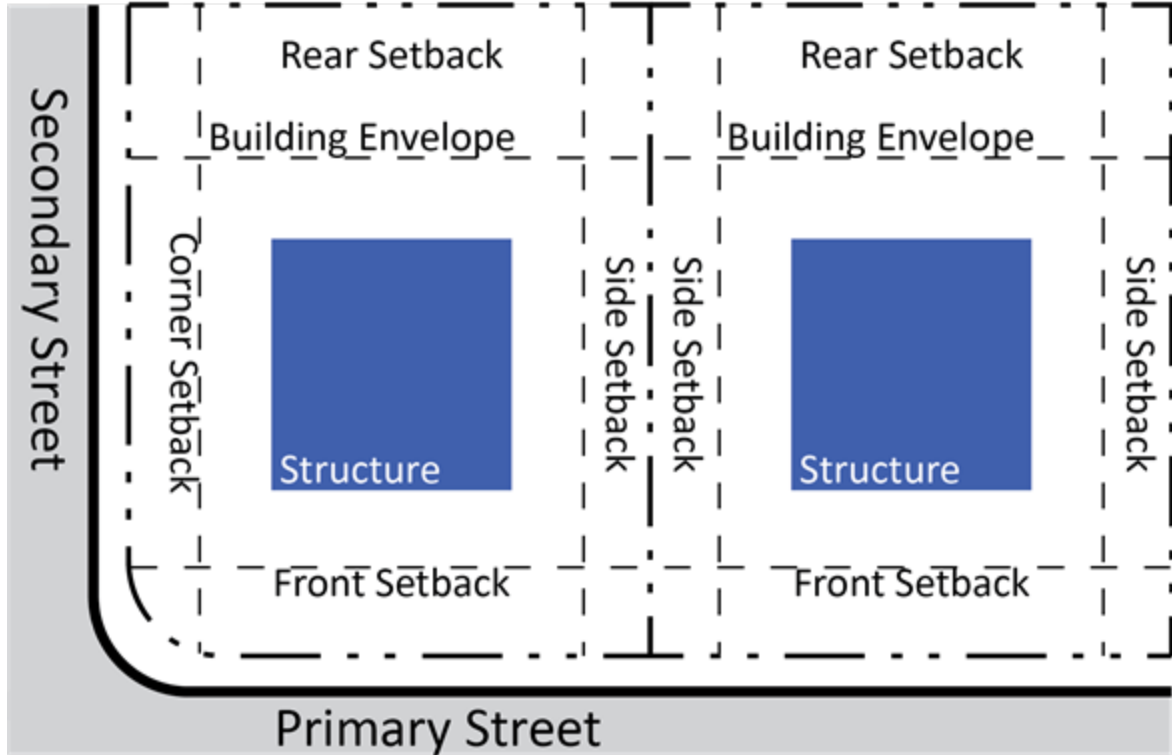
Building. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of animals or chattels.

Building, Principal. A building in which is conducted the principal use of the lot on which said building is situated.

Building Setback Line (Setback). A line establishing the minimum allowable distance between the buildings and the road right-of-way line and/or the property line in which no structure shall be built.

1. Setback, Front: Any setback from a street or road.
2. Setback, Interior: A setback from any property line not alongside a street or road.
3. Setback, Rear: A setback from an interior property line lying on the opposite side of the lot from the front street or road setback.
4. Setback, Side: Any interior property line setback other than a rear setback.
Setback, Side Corner: A street or road setback on a corner lot other than a front setback. For purposes of this ordinance, the Administrator shall determine which setback is the front setback.

Figure 1-1 Building Setback Line



Built-upon area. Built-upon area 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).

Business enterprise. An operation, facility, and/or area where items are sold and/or services are rendered, whether for profit or not.

Business unit. An operation, facility, and/or area where business activities take place under one ownership, A structure might contain multiple business units, if each is under separate ownership.

2.11.3 C

Campground. A campground with two or more camping unit sites, accessible by vehicular traffic where sites are substantially developed and tables, refuse containers, flush toilets, bathing facilities, and water are provided.

Car Wash. A lot on which motor vehicles are washed, vacuumed, or waxed, either by

the patron or by others, using machinery specifically designed for the purpose.

Certificate of Occupancy. A statement, signed by an administrative officer of the County, setting forth that the building, structure or use complies with this Ordinance and that the same may be used for the purposes stated therein.

Certificate of Zoning Compliance. A statement, signed by the Zoning Enforcement Officer or his/her designee, setting forth either that a building or structure complies with the provisions of this Ordinance, or that a building, structure, or parcel of land may lawfully be employed for specified uses, or both.

Civic or Social Club or Lodge. A structure or use owned or leased by a private club, offering membership use of the structure for social occasions. Examples could include Knights of Columbus, Masonic Lodges, Elk Lodge, Shriners, etc. Such a club/lodge structure could be used for meeting rooms, classes, and social functions such as dances, weddings, receptions, etc. This does not include a night club open to the general public or a facility where alcohol is sold to non-members.

Common Area(s). All areas, including private roads, conveyed to a Homeowners' association within a development, or owned on a proportional undivided basis in a condominium development.

Convalescent Home. A facility that provides nursing services and custodial care on a 24-hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

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). Items offered for sale may also include automobile and small truck fuel sales. This use is designed and intended to attract and depend upon a large volume of 'stop and go' traffic and may include gasoline sales.

County Commission. The Board of County Commissioners of Lenoir County, North Carolina.

Critical Area. The area adjacent to a water supply intake extending one-half mile upstream from the intake located directly in the river or the ridge line of the watershed (whichever comes first). 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.

2.11.4 D

Dangerous to Others. When an individual, within his/her relevant past, has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerous to others [N.C.G.S. 122C-3(11) b].

Data Processing Facility (Large Scale). A building, dedicated space within a building, or group of structures located on one or more acres of land used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. May also be referred to as a “Data Center”. This definition shall not apply to smaller data processing facilities that are located on less than one acre of land and where such facilities are accessory or incidental to another primary use.

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.

Dedication. A gift by a property owner to another being received for the transfer. The dedication is made by written instrument and is completed with a written acceptance.

Development. Unless the context clearly indicates otherwise, the term means:

1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure
2. Excavation, grading, filling, clearing, or alteration of land.
3. The subdivision of land as defines in N.C.G.S. 160D-802.
4. The initiation of substantial change in the use of land or the intensity of the use of land.

Developmentally Disabled Person. A person who has a severe or chronic disability attributed to mental or physical impairment or a combination thereof, resulting in

substantial functional limitations in life activities. Such limitations may affect the person's ability to self-care, utilize receptive and expressive language, learn, be mobile, self-direct, live independently, or be economically self-sufficient. Such persons may require a combination or sequence of special, interdisciplinary, or genetic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

Day-care center, Adult: An agency, organization, or individual providing daytime care to adults not related by blood or marriage, or not the legal wards of the attendant adult at any place other than an occupied dwelling.

Day-Care Center. A childcare center is an arrangement not excluded by NC G.S. 110-86(2), where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.

Development Permit. An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:

1. Zoning permits.
2. Site plan approvals.
3. Special use permits.
4. Variances.
5. Certificates of appropriateness.
6. Plat approvals.
7. Development agreements.
8. Building permits.
9. Subdivision of land, preliminary plats, and final plats.
10. State agency permits for development.
11. Driveway permits.
12. Erosion and sediment control permits.
13. Sign Permit.

Discontinued. To quit or cease, either intentionally or unintentionally, operation or activity associated with a use of land, structures, or any premises from their intended or previous use or to replace the previous use with a new use of a different kind or class. A change of occupancy, owner, or tenant does not constitute a discontinuance or change of use. This definition includes "discontinue", "discontinuance", "ceased" (as it refers to a use, and any other tense or version of the word "discontinued."

Developer or Subdivider Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Double or Reverse Frontage Lot A continuous (through) lot of the same depth as the width of a block and which is accessible from both of the streets upon which it fronts.

Drainage. The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

Drainageway. Any natural or man-made channel that carries surface runoff from precipitation.

Drycleaning and Laundry Collection. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

Dwelling or Dwelling Unit. 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, Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.

Dwelling, Accessory Unit (or Accessory Dwelling Use). A dwelling, either detached or attached, located on the same lot as the principal single family dwelling unit.

Dwelling, Caretaker. An accessory dwelling used as a residence by an on-site caretaker to provide security for a business or industrial principal use.

Dwelling, Single-Family. A building arranged or designed to be occupied by one (1) family.

Dwelling, Two-Family. A building arranged or designed to be occupied by two (2) families living independently of each other.

Dwelling, Multi-Family. A building or portion thereof used or designed as a dwelling for three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each, and including apartments, condominiums, and/or townhouses.

2.11.5 E

Eating and Drinking Facility. See Restaurant.

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 person of a strip of land for specific purposes.

1. Access Easement: An easement which grants the right to cross property. Access easements that are platted as an alternative to access to a public or private street must meet the conditions and design standards delineated in Section [6.6.2](#).
2. Drainage Easement: An easement which grants the right of water drainage to pass in open channels or enclosed structures.
3. 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.
4. 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.

Electronic gaming operation. A business enterprise, whether principal or accessory, where persons utilize electronic machines or devices, including but not limited to computers and gaming terminals, to conduct games of odds or 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. Specifically excluded from this definition is any lottery approved by the State of North Carolina.

It is the activity that defines an electronic gaming operation, not the name; so an internet café, cybercafé, cyber sweepstakes, video arcade, game room, etc. might or might not be an electronic gaming operation. That is, there could be two businesses with the same kind of name (say, two video arcades or two internet cafés), and one might qualify as an electronic gaming operation and the other might not, based upon the actual activity within the business itself.

Electronic machine or device. A mechanically-, electrically-, or electronically-operated machine or device, that is owned, leased, or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This section is applicable to an electronic machine or device whether or not:

1. It is server-based.
2. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
3. It utilizes software such that the simulated game influences or determines the winning or value of the prize.
4. It selects prizes from a predetermined finite pool of entries.

5. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
6. It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
7. It utilizes software to create a game result.
8. It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
9. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.
10. It requires purchase of a related product.
11. The related product, if any, has legitimate value.
12. It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.
13. It determines and associates the prize with an entry or entries at the time the sweepstakes is
14. It is a slot machine or other form of electrical, mechanical, or computer game.

Enter or entry. The act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

Entertaining display. Visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play, such as, by way of illustration and not exclusion:

1. A video poker game or any other kind of video playing card game.
2. A video bingo game.
3. A video craps game.
4. A video keno game.
5. A video lotto game.
6. Eight liner.
7. Pot-of-gold.
8. A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.
9. Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

Event Center Limited. A smaller scale smaller scale building to serve as a venue for business opportunities and gathering space.

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:

1. 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
2. having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1), or
 3. having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1).

Existing manufactured housing park: any manufactured housing park in existence on the effective date of this Ordinance, as amended, is exempt from the provisions of this Ordinance. Additions of 10 or more cumulative spaces at such parks shall be subject to the requirements of this Ordinance.

Existing, Pre-Existing Or Established Junkyard. Any junkyard or automobile graveyard in operation at the effective date of this ordinance, including property purchased prior to the effective date of this ordinance where site preparation was underway and who's owner is a participant in the voluntary Hurricane Floyd Buyout program.

Existing Lot (Lot of Record). A lot, which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Extraterritorial Jurisdiction (ETJ) That portion of a municipal planning jurisdiction that lies outside of the corporate limits of the municipality.

2.11.6 F

Fabrication or Manufacturing. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, etc.

Family. One or more persons occupying a dwelling unit and living as a single household.

Family Care Home. A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. For purposes of this definition, "person with disabilities" means a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional

disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Family Child Care Home. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

Family Subdivision. Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

Farm Machinery Sales, Service, and Repair. A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but may include food sales and farm machinery repair services that are accessory to the principal use.

Fence/Screening. A continuous, opaque barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, wood, stone, steel, or other metal, or any substance of a similar nature and strength, which will hide the automobile graveyard or junkyard.

Financial Guarantee Any form of security, including a cash deposit, or instrument of credit, in an amount and form approved by Lenoir County for use in place of actual construction of required subdivision improvements. Also referred to as 'surety'.

Flood Plain, 100-Year And 500-Year. The area of 100 year and 500 year flood inundation as shown on Lenoir County's Official Flood Insurance Maps, as amended.

Flood Prone Areas Areas indicated on the Flood Insurance Rate Maps of the National Flood Insurance Program to be susceptible to inundation during a 100-year flood. In the absence of 100-year flood data, other flood data may be used if approved by the National Flood Insurance Program. See also Special Flood Hazard Area.

Freeway. A divided arterial highway for through traffic with full control of access.

Firing Range. Firing range or clubs involving the use of firearms except that the temporary activity known as a "turkey shoot" shall not be considered a firing range.

Frontage. All the property abutting on one (1) side of a street between two (2) intersecting streets, measured along the street line.

Funeral home. An establishment for the arrangement and management of funerals and preparation of the human deceased for burial. Does not necessarily include crematoria.

2.11.7 G

Garage. An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles and which receives fifty percent or more of its gross income from charges made for such repairs.

Gate. A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

Golf Course, Miniature. A tract of land used for playing golf, improved with fairways having a maximum length of 50 yards and having tees, greens and hazards and the tract of land may include clubhouses and shelters.

Grade The slope of a road, street, or other public way specified in percentage terms.

Grandfather. A permitted business in operation before the effective date of this ordinance. Only the permitted owner/operator is grandfathered, not the building or property.

Gross Floor Area. The interior floor area of a building exclusive of stairways, storage closets, and elevator shafts.

Group Care Facility. A facility licensed by the State of North Carolina, providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including Family Care Home as provided for in N.C.G.S. 168-20 through 168-23. A Group Care Facility shall be limited to a Commercial Zoning District only and not more than thirty (30) persons. Group Care Facilities may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. All applications for permits shall be accompanied by a map showing the nearest existing Group Care Facility, Residential Treatment Facility, or Family Care Home, with the certification that the proposed Group Care Facility will be located no closer to them than one (1) mile, a description of the type of persons to be cared for and the nature of the care to be provided, and plans for proposed structural alterations to existing structures or new construction, including a complete description of the nature and extent of these

alterations or new construction. The Special Use Permit shall be revocable with the loss of State licensure, or if the property is vacated or its use discontinued, regardless of the intent of the owner, for greater than 180 days. The licensee shall apply for a review before the Lenoir County Planning Board at least thirty days prior to any proposed change in the management or operation of the facility. If the Board deems that the change will substantially alter the impact of the treatment facility on surrounding properties, or that any of the original conditions are not met by the proposed management or operation, then the Board shall make such findings in an amendment, repeal, or issuance of a new Special Use Permit, as applicable. The owner of any unlicensed Group Care Facility in operation on August 16, 2004 (the date of the enactment of this amendment) that is made nonconforming by this Ordinance may continue its use while following the procedures to attain compliance with this Ordinance for up to one hundred and eighty (180) days from its adoption. After that date, the property owner of any unlicensed unit or home determined to be in operation for which no application has been filed shall be notified by certified mail or personal service by the zoning administrator or his designee of the violation. The notice shall allow the owner no greater than thirty (30) days within which to either file the appropriate application for permit or to discontinue the use. Enforcement remedies shall be applied as outlined in Article X of this Ordinance. Existing Group Care Facility shall be exempt from the required separation distances for the initial permit only and all provisions herein shall be applicable to any subsequent review.

Group Development. A group of two or more principal structures built on a single lot, tract, or parcel of land and designed for occupancy by separate families, firms, businesses, or other enterprises.

2.11.8 H

Hardware, Paint and Garden Supply Sales. Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Handicapped Person. A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. 122C-3(11) b. Each handicapped person shall have the same right as any other citizen to live and reside in residential communities, homes, and Group Care Facilities, and no person or group of persons, including governmental bodies or political subdivisions of the State, shall be permitted, or have the authority, to prevent any handicapped person, on the basis of his or her handicap, from living and residing in residential communities, homes, and Group Care Facilities on the same basis and conditions as any other citizen (N.C.G.S. 168-9).

Health Or Safety Nuisance. A motor vehicle may be declared a health or safety nuisance when it is found to be:

4. A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
5. A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
6. A point of collection for pools or ponds of water; or
7. A point of concentration of gasoline, oil, or other flammable or explosive materials; or
8. So located that there is a danger of the vehicle falling or turning over; or
9. A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials.

Homeowners' Association (HOA) An organization of homeowners or property owners owning real property, residing, or operating a business within a particular subdivision or development whose major purpose is to maintain and provide community facilities, services, or land for common use of the residents or property owners of the subdivision or development.

Home Occupation. An accessory use of a dwelling unit for gainful employment or supplemental income purposes which is clearly incidental and subordinate to the use of the dwelling as a residence and which does not alter or change the exterior residential character or appearance of the premises except for compliance with appropriate provisions of the North Carolina State Building Code and the Americans with Disabilities Act as they relate to building accessibility for the handicapped.

Hotel. A facility that contains rooms for overnight guests containing registration facilities, on-site management, cleaning services, and combined utilities. May include food service facilities.

2.11.9 I

Improved Area. That portion of a lot that is developed, utilized, or occupied by a structure or use that involves the alteration of the land from its natural, undisturbed, undeveloped state.

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use of storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product of commodity.

2.11.10 J

Juvenile Adjudicated as Delinquent. A minor, less than 18 years of age, who has, through the criminal justice system, been determined to have committed offenses or violations of law. Such persons may be subject to, or court ordered to participate in, varying degrees of therapy, treatment, or behavior modification, including specialized living situations and/or incarceration.

Junk. Old or scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles or parts thereof, dismantled or broken appliances or parts thereof, including white goods, iron, steel, and other old scrap ferrous or non-ferrous materials, abandoned Manufactured Housing Units or parts thereof, abandoned stick-built houses or parts thereof, or abandoned farm machinery or parts thereof.

Junkyard. An establishment or place of business, which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard. The term shall not include any County operated sanitary landfill.

Junkyard Control Act. N.C. General Statutes 136-141 through 155 (Article 12) which delegate to the N.C. Department of Transportation the responsibility to regulate "junkyards" and "automobile graveyards" located on interstate and federal-aid primary system highways.

Junk/Salvage Yard. The use of more than six hundred (600) square feet of any lot for the storage, keeping or accumulation of material, including scrap metals, wastepaper, rags, or other scrap materials, or used building materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

2.11.11 K

Kennel, Commercial. Any building, structure, or land area used, primarily for sale or profit or for humane purposes, for the boarding, breeding, training, showing, or raising of five (5) or more dogs, cats or other animals four (4) months of age or older. This definition shall not apply to dogs or cats owned by an individual or club where such animals are kept on a lot of five (5) or more acres and provided that any structures built for keeping of such animals are located one hundred (100) feet or more from the nearest adjacent dwelling and fifty (50) feet or more from any adjoining property. Pet shops and veterinary hospitals shall be exempt from the

definition of commercial kennel.

2.11.12 L

Landfill, Construction and Demolition Debris. A sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the NC Division of Solid Waste Management.

Land Development Regulation. Any State statute, rule, or regulation, or local ordinance affecting the development or use of real property, including any of the following:

1. Unified development ordinance.
2. Zoning regulation, including zoning maps.
3. Subdivision regulation.
4. Erosion and sedimentation control regulation.
5. Floodplain or flood damage prevention regulation.
6. Mountain ridge protection regulation.
7. Stormwater control regulation.
8. Wireless telecommunication facility regulation.
9. Historic preservation or landmark regulation.
10. Housing code

Landfill, Land Clearing. A facility for the land disposal of solid waste that is generated solely from land clearing activities including stumps, trees, limbs, brush, grass and other naturally occurring vegetative material wastes.

Landfill, Sanitary. A facility for disposal of solid waste on land in a sanitary manner in accordance with NC GS 130A-290.

Library. A library contains books, periodicals, digital media, and other material for reading, viewing, listening, study, reference, and/or borrowing but not including a bookstore, newsstand, and the like where the primary activity is the selling, rather than the lending, of the items.

Lenoir County Future Land Use Plan. A comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the County. This plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction of the County based on an analysis of present and future needs. Such planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. This plan addresses many of the factors set

forth in GS 160D – 501(b), and future updates to such plan may address any or all of the factors therein described. Amendments to the Land Use Plan shall follow the process mandated for the adoption of zoning text amendments set forth in Section [6.6.1](#) below. All zoning regulations shall be made in accordance with the Land Use Plan.

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. In determining the area and dimensions of a lot, no part of the right-of-way of a street or road may be included. The word lot also includes the words “tract, "plot" or "parcel".

1. Interior Lot: A lot other than a corner lot.
2. Corner Lot: A lot abutting two or more streets at a street intersection.
3. 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 street or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the street 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 street
4. Lot Coverage: The portion of a lot covered by building(s) and/or structure(s).
5. Lot Depth: The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot
6. Lot Frontage: The length of the front lot line measured at the street right-of-way line.
7. Lot of Record: A lot, plot, parcel, or tract recorded in the Office of the Lenoir County Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation or a lot described by metes and bounds, the description of which has been recorded prior to the adoption of this ordinance.
8. 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
9. Existing Lot (Lot of Record): See Lot of Record

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 road right-of-way line cannot be determined, a line running parallel to and thirty (30) feet from the center of the traveled portion of the road.

Lot Depth. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

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).

Lot Lines. The lines bounding a lot.

Lot of Record. A lot, plot, parcel, or tract recorded in the Office of the Lenoir County Register of Deeds in conformance with the Ordinance(s) in effect at the time of recordation or a lot described by metes and bounds, the description of which has been recorded prior to the adoption of this Ordinance.

Lot Width. The horizontal distance between the side lot 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.

Low Volume Traffic Generation. Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

2.11.13 M

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.

Manufactured Housing (or Manufactured Home). A structure as defined in G.S. 143-145(7) as which is transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this Subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a

measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. See also NC G.S. 143-145(7).

Manufactured Home, Class A. A manufactured home that:

1. Is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended;
2. is not dated prior to 1976;
3. has all windows and doors intact and in working condition;
4. is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the dwelling site on its own chassis;
5. meets or exceeds the construction standards of the U. S. Department of Housing and Urban Development; and conforms to the following appearance criteria:
 - a. The dwelling unit has a minimum width, as assembled on site, of twenty (20) feet;
 - b. The roof pitch of the dwelling unit has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
 - c. Continuous, permanent curtain wall, unpierced except for required ventilation and access, is installed under the dwelling unit; and
 - d. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home, Class B. Any manufactured home that does not meet the definitional criteria of a Class A manufactured home but which, at a minimum, exceeds forty (40) feet in length and eight (8) feet in width. [Manufactured homes that do not meet the definitional criteria of Class A or B manufactured homes are classified as recreational vehicles. See definition of Recreational Vehicle.]

Manufactured Home Park. Any site or tract of land upon which are located three or more contiguous manufactured housing spaces to be occupied for dwelling purposes.

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

Manufactured Housing Subdivision: creation of manufactured housing spaces for the purpose of sale shall be subject to the Lenoir County Subdivision Regulations.

Microbrewery/Microdistillery. A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity not more than 15,000 barrels per year or a facility that produces small quantities of beverage grade spirit alcohol.

Microwinery. A facility for the production and packaging of wine less than 10,000 cases of wine per year. It can either include a vineyard or may not have its own vineyard. A winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling.

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.

Migrant Labor Housing. A farm accessory use where single family dwellings or manufactured homes are used as temporary housing for migrant farm laborers.

Mining. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial or construction use; but shall not include those aspects of deep mining not having significant effect on the surfaces, and shall not include excavation or grading when conducted solely in aid of on site farming or construction. This definition shall not apply to mining operations on one acre or less.

Modular Home. A structure as defined in G.S. 105-164.3(143) as a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1.

Motel. See "Hotel."

Motor Vehicle. Any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Multi-phased development. A development containing 25 acres or more that is both of the following:

1. Submitted for development permit approval to occur in more than one phase.

2. Subject to a master development plan with committed elements showing the type and intensity of use of each phase. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 5(a), 50(b), 51(a), (b), (d).)

2.11.14 N

Non-conforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of this ordinance or its amendments that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Non-conforming structure. A building or structure that lawfully existed prior to the initial adoption of this article or any subsequent amendments that is not in compliance with this article.

Nonconforming Use. A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this Ordinance, or as a result of subsequent amendments to this Ordinance.

Non-residential Development. All development other than residential development, agriculture and silviculture.

Nursing Home. A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine (9) persons.

2.11.15 O

Official Map or Plans. Any maps, plans, charts, or texts officially adopted by the County Board of Commissioners for the development of Lenoir County.

Off-street parking space. A marked or otherwise identified parking space that is located outside the public right-of-way or private road easement and is suitable to accommodate one automobile plus the necessary access space.

Open space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in a natural state.

Operator. Someone who is engaged in management of a business, activity, or enterprise, including the permit holder for an electronic gaming business.

Outdoor storage. A use in which an outdoor area is used for the long-term (more than seventy-two (72) hours) retention of vehicles, boats, recreational vehicles,

containers or equipment, which are operable or intended to remain in active use by the owner. Outdoor storage does not include the sale, repair, incineration, recycling, scrapping, dismantling, abandonment, or discarding of materials, vehicles, or equipment. Temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or erect a structure and automotive retail sale areas where motorized vehicles are stored for the purpose of direct sale to the ultimate consumer shall not be considered outdoor storage.

Owner. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

2.11.16 P

Parcel. See Lot.

Park. Any public or private land or combination of land and water resources available for recreational, educational, cultural, wildlife preservation, or aesthetic use.

Permitted use. A principal use, other than a special use, that is approved administratively when it complies with the standards and requirements set forth in this article. Also known as a use “permitted by-right”.

Person. An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

Photovoltaic. A material or device in which electricity is generated as a result of exposure to light.

Physically Disabled Person. A person with any physical impairment that substantially limits one or more of such person’s major life activities. Such impairments may include, but are not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine.

Place of worship. A structure or other indoor or outdoor facility used for public worship. The term "place of worship" includes the words "church," "chapel," "synagogue," "mosque," and "temple" and their uses and activities that are customarily related.

Planned Unit Development. A housing project with dwelling units grouped into clusters, an appreciable amount of land reserved for open space, and part of the land used for nonresidential purposes and/or higher densities than typical

conventional single-family projects.

Planning Board. A quasi-judicial body, appointed by the County Board of Commissioners, that is given certain powers under this Ordinance, established pursuant to G.S. 160D-301.

Planning Department. County of Lenoir department consisting of the planning staff.

Plat. Includes the map, plan, plat, replat, replot; a map or plan of a tract or parcel of land which is to be, or which has been subdivided.

Plat, Preliminary. A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Plat, Final. A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land required by this ordinance.

Plot. See lot.

Private Road. A vehicular travelway not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system. Private streets must meet the design standards delineated in Section 9.4.2. The platting of such streets requires a Subdivision Streets Disclosure Statement in accordance with NCGS 136-102.6.

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.

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.

Prize: Any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

Professional Engineer. A person who has been duly registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

Professional Services. A facility primarily engaged in providing services involving the care of a person or personal goods or apparel. Examples of personal service establishments include apparel alteration and tailoring shops, shoe repair shops, dry cleaning and laundry pickup shops, coin-operated laundry facilities, barber shops, beauty salons, day spas, small household appliance repair, and security sales and service businesses.

Protected Area. The area adjoining and upstream of the Critical Area for the Neuse River and Little River watersheds. The boundaries of the protected area are defined as within ten miles upstream and draining to the intake located directly in the river or to the ridgeline of the watershed. Major landmarks may be used to delineate the outer boundary if these landmarks are immediately adjacent to the appropriate outer boundary.

Public Park. A park owned and/or operated by a governmental agency.

Public or Private School. A facility that provides instruction and training, often in a wide variety of subjects. Some are establishments that are highly specialized, offering instruction in a very limited subject matter, such as ski lessons, real estate license course, or one specific computer software package. This instruction and training is most often provided by specialized establishments, such as schools, colleges, universities, and training centers. These might be establishments that are privately-owned and -operated for profit or not for profit, or they may be publicly-owned and -operated.

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.

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.

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.

2.11.17 R

Recreation, Indoor. Uses or structures for active recreation, including gymnasiums, natatoriums, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities, and their customary accessory uses.

Recreation, Outdoor. Parks and other open space used for active or passive recreation such as ball fields, batting cages, skateboard parks, playgrounds, greenway trails, driving ranges, tennis courts, riding stables, campgrounds, and golf courses and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses (with or without food service), pools, restrooms, and picnic shelters.

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.

Registered Land Surveyor. A person who, by reason of their special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as attested by their registration as a registered land surveyor by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

Residential Development. Buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residential Treatment Facility. A facility that primarily provides 24-hour supervision and Level I, II, III therapeutic treatment as licensed by the North Carolina Department of Health and Human Services for adults or children with behavioral disorders, or juveniles adjudicated in a court of law as delinquent.

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

Restaurant. An establishment providing food and food service, whereby at least 51% of the establishment's revenue is derived from such food sales.

Retail. Establishments including shops, stores, and service establishments, engaged in the selling or rental of goods or merchandise (usually to the general public for personal or household use) and in rendering services incidental to the sale of such

goods, entirely within an enclosed building. Examples of retail sales establishments include bookstores, pharmacies, office supply stores, business machine companies, dental supply companies, clothing and shoe stores, department stores, discount stores, card and stationery shops.

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 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.

2.11.18 S

Service Station. Any establishment which is maintained and operated for the primary purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs, servicing and/or washing of motor vehicles and which receives more than fifty percent of its gross income from the retail sale of the aforesaid items and/or from the making of mechanical repairs, servicing and/or washing of motor vehicles.

Shadow Flicker. The visible flicker effect when rotating wind turbine blades cast shadows causing the repeating pattern of light and shadow.

Sign. Any device, letter, numeral, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated surface, that is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner, whatsoever, so that the same is used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, that are displayed in any manner whatsoever, including out* of-doors, and are visible from any public way. Also included are any card, cloth, glass, metal, painted, paper, plastic, wooden, or other configuration of any character placed in or on the ground or any tree, wall, bush, rock, fence, pavement, building, structure, or thing, for the purpose of advertising, announcing, declaring, demonstrating or displaying information about a specific business, occupant use, activity, or building, including clocks, barber poles and similar devices. This shall exclude official notices issued by a court or public officer.

Sight Distance Area, Horizontal. The area formed by extending lines from the point of intersection of intersecting streets along the centerline of such streets for a distance of forty feet and connecting the ends of such lines by a straight line to form the base for a triangle. Each of the two sides of the triangle will be forty feet in length.

Sight Distance Area, Vertical. The area between three feet and ten feet above the horizontal area measured from the level of the point of intersection of the centerlines of the intersecting streets.

Site Element. Any site improvement that is not also considered an inhabitable structure, including but not limited to parking areas, access ways or driveways, pedestrian improvements, landscaping, signage, signs, lighting, in-ground infrastructure, etc.

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 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.

Solar Energy Facility. An energy facility or area of land principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more photovoltaic or solar energy systems. This definition shall exclude those facilities that are installed on the roof of a building, the primary purpose of such building not being for the commercial production of solar energy and those facilities that contain an Improved Area less than or equal to 10 acres in the aggregate.

Solid Waste. any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

1. Fecal waste from fowls and animals other than humans. Solid or dissolved material in:
 - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
 - b. Irrigation return flows.
 - c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous

- waste under RCRA shall also be a solid waste for the purposes of this Article.
2. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
 3. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
 4. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
 5. Recovered material.

Special Flood Hazard Area. An area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

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. The term includes permits previously referenced to as conditional use permits or special exceptions.

Street or Road. The all-weather travel way within a public or private right-of-way or easement that is set aside for public or private travel and provides access to abutting properties, and has been accepted for maintenance by the State of North Carolina, has been established as a public or private street prior to the date of adoption of the ordinance from which this article derives, has been dedicated to the State of North Carolina for public travel by the recording of a plat of an approved subdivision, or has been approved as a private street by Lenoir County.

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.

Stormwater Runoff. The direct runoff of water resulting from precipitation in any form.

Storage. The deposition of commodities or items for the purposes of future use or safekeeping.

Streets. A right-of-way for vehicular traffic which is dedicated to public or private use and constructed to acceptable standards. Streets shall be classified as one of the following:

1. Arterial Streets: Streets and highways of exceptional continuity, designed to route traffic through or around the County.
2. Primary Streets: A street or highway of considerable continuity, designed primarily as a radial or cross-county traffic artery for intercommunication between various sectors of the county.
3. Secondary Streets: A street or highway serving as a connecting link between two (2) primary or arterial streets.
4. Collector Streets: Streets which carry traffic from minor streets to the system of major streets (primary and/or arterial streets). Residential collector roads are further defined by the N. C. Department of Transportation's "Subdivision Roads-Minimum Construction Standards" as amended.
5. Minor Streets: Streets which are used primarily for access to abutting properties. These local residential subdivision roads do not connect thoroughfares or serve major traffic generators and are further defined by the N.C. Department of Transportation's "Subdivision Roads-Minimum Construction Standards" as amended.
6. Cul-de-sacs - These are short roads, open at one end only, with a special provision for turning around at the other end which is permanently closed. They have a "bulb" end design with a specific turning radius and a limited number of lots.
7. Dead End Roads - These are roads open at one end only without special provisions for turning around and have no collector characteristics.
8. Short Connecting Roads - These roads are normally one block long or extend on a block-by-block basis and have no collector characteristics.
9. Loop Roads - A road that has its beginning and ending points on the same route. It is less than one mile in length and has no collector characteristics.
10. Other Roads - These roads do not connect thoroughfare or serve major traffic generators and do not have "collector" characteristics. These include marginal access streets parallel to or adjacent to Arterial and/or Primary Streets and highways and provide access to abutting properties and protection from through traffic.

Structure. Anything constructed, erected, or placed.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be subdivision as herein defined.

Subdivision Administrator. The official charged with administering and enforcing this Ordinance or their designee. The Administrator is currently defined as the Planning Director for the County of Lenoir County or may be reassigned by the Board of Commissioners as needed.

Subdivision. The division of land for the purpose of sale or development as specified in G.S. 160D- 802. All subdivisions of land must also comply with Lenoir County’s Subdivision Ordinance.

Subdivision, Major. A major subdivision is a subdivision involving more than three lots or a subdivision involving any new streets or prospectively requiring any new streets for access to interior property.

Subdivision, Minor. A minor subdivision is a subdivision.

1. involving not more than three (3) lots, all of which front on an existing approved street; and
2. not involving any new streets or prospectively requiring any new street for access to interior property.

Surface Drainage. A drainage system consisting of culverts and open ditches.

Supervised Living Facility. A facility providing a structured living environment for developmentally disabled adults or children within the context of a residential setting. Supervision may vary from full time to part time depending on the severity of the developmental disability

Sweepstakes. Any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

2.11.19 T

Technical Review Committee. A technical review committee established by the Board of County Commissioners for the purpose of review and approval of subdivisions and manufactured housing parks in Lenoir County. The Technical Review Committee shall consist of the Planning Director, Env. Health Director, Fire Marshal, GIS Coordinator, Emer. Mgmt Director, and Global TransPark Authority (when applicable).

Tense and number: unless otherwise stated the following words shall, for the purpose of this Ordinance, have the meaning herein indicated. Words used in present tense include the future. The singular number includes plural and the plural includes the singular.

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.

Total Retail Space. Any space within a structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Tower. Any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

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 off springs or other adverse health effects.

Transfer facility. A permanent structure with mechanical equipment used for the collection or compaction of solid waste prior to transportation for final disposal.

Transmission Equipment. Equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiberoptic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

2.11.20 U

Use. The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

Use-by-right. A use which is listed as an unconditionally permitted activity in this article.

Use, non-conforming. The use of a building, structure, or lot for a purpose that does not conform to the regulations of this article, either at the effective date of the ordinance from which this article derives or as a result of subsequent amendments which may be incorporated in this article.

Use, Principal Permitted. A use which is permitted outright in a district for which a Zoning Permit may be issued by the Zoning Enforcement Officer.

2.11.21 V

Variance. A permission to develop or use property granted by the Planning Board relaxing or waiving portions of this Ordinance or of a water supply watershed management requirement adopted by the N.C. Environmental Management Commission that is incorporated into this Ordinance.

Vectors. Any organism that carries disease-causing microorganisms from one host to another (e.g. rats, mosquitoes, etc.).

Vehicle Major Repair and/or Body Work. Repair of construction equipment, commercial trucks, agricultural implements, and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops, and other similar uses where major repair activities are conducted.

Vehicle Minor Repair and/or Body Work. The business of minor repairs to any motor vehicle, including repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, and repair and replacement of shock absorbers.

Visible. Capable of being seen without visual aid by a person of normal acuity.

Veterinary Animal Service. An establishment for the care and treatment of small animals, including household pets.

2.11.22 W

Wall. A structure, other than a building, that is a barrier and is used as a boundary, screening, or means of protection or confinement. A wall functions like a fence but is usually thicker than six inches.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing 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.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

WS – IV Watershed Areas – Critical Area (WS – IV – CA). – The area adjacent to a water supply intake extending one-half mile upstream from the intake located directly in the river or the ridge line of the watershed (whichever comes first). 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.

WS – IV Watershed Areas – Protected Areas (WS – IV – PA). – The area adjoining and upstream of the Critical Area for the Neuse River and Little River watersheds. The boundaries of the protected area are defined as within ten miles upstream and draining to the intake located directly in the river or to the ridgeline of the watershed. Major landmarks may be used to delineate the outer boundary if these landmarks are immediately adjacent to the appropriate outer boundary.

Wind Energy Facility, Small. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single Wind Turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20kW or less.

Wind Energy Facility, Large. A wind energy conversion system consisting of one or more Wind Turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20kW.

Wind Turbine. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires, and pad transformer. Also known as a “windmill.”

Wireless Facility or Wireless Facilities. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and(ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

1. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
2. Wireline backhaul facilities.
3. Coaxial or fiber-optic cable that is between wireless structures or utility poles.

White Goods. Refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

Wholesale Operations, Indoor. An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Winery. A facility or establishment engaged in the production and sale of wine without necessarily the existence of an adjacent vineyard; including, places that offer traditional wine tasting and have areas for demonstration, education, retail sale, or tasting.

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services, using licensed or unlicensed wireless spectrum, including the use of WI-FI, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider. A person who provides wireless services.

Wireless Support Structure. A new or existing structure, such as a Monopole, Lattice Tower, or Guyed Tower that is designed to support or capable of supporting Wireless Facilities. A Utility Pole is not a wireless support structure.

2.11.23 Y

Yard area: shall mean that portion of land immediately surrounding a manufactured home that is set aside for the individual use of the manufactured home resident.

2.11.24 Z

Zoning Administrator (also known as the Zoning Enforcement Officer). The official charged with administering and enforcing this Ordinance or their designee. The Administrator is currently defined as the Planning Director for the County of Lenoir County or may be reassigned by the Board of Commissioners as needed.

Zoning Enforcement Officer. The official charged with administering this Ordinance,

or their designee. See also “Zoning Administrator”.

Zoning Map. The “Official Zoning Map of Lenoir County, North Carolina”, with all amendments subsequently adopted and filed in the office of the Lenoir County Zoning Enforcement Officer.

ARTICLE 3. GENERAL PROVISIONS

The regulations set forth in this Ordinance affect all land, every structure, and every use of land or structure within all areas zoned by Lenoir County.

3.1 NEW USES OR CONSTRUCTION

No person shall commence or proceed with development without first securing approval from the County as herein provided. As defined in GS 160D-102(12), “development” means any of the following:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- B. The excavation, grading, filling, clearing, or alteration of land.
- C. The subdivision of land as defined in G.S. 160D-802.
- D. The initiation or substantial change in the use of land or the intensity of use of land.

3.2 CONFORMING USES

After the effective date of this Ordinance, land or structures, or uses of land or structures which conform to the regulations for the zoning district in which the use or structure is located may be continued, provided that any structural alteration or change in use shall conform with the regulations herein specified.

3.3 NONCONFORMING LOTS, USES AND STRUCTURES

After the effective date of this Ordinance, pre-existing structures or uses of land or structures which would be prohibited under the regulations for the zoning district in which the use is located shall be considered as nonconforming. Nonconforming structures or uses may be continued provided they conform to the following provisions:

- A. EXTENSION OF NONCONFORMING USES
 1. Nonconforming uses shall not hereafter be enlarged or extended in any way.
- B. CHANGE OF NONCONFORMING USES
 1. A nonconforming use shall not be changed to any use but a use listed as permitted in the regulations for the district in which such nonconforming use is located.
- C. CESSATION OF NONCONFORMING USES
 1. A nonconformity shall be presumed to be discontinued and abandoned, shall lose its nonconforming status, and shall not be reestablished or resumed and thereafter be used only for conforming purposes, when any of the following has occurred:
 - a. If active operations of a nonconforming use are discontinued for a continuous period of six (6) months, such nonconforming use shall thereafter be used only for a conforming use.
 - b. At the point when the electric meter is pulled off or water service is terminated on a structure or lot due to any reason, provided that it is not replaced or reactivated within the 180-day period within the 180-day period immediately following.

- c. The owner has indicated intent to abandon the use, delivered in writing to the Planning Director.
- D. All of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole in determining whether a right to continue a nonconformity is lost pursuant to this section. However, if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- E. REPAIR, MAINTENANCE, AND ALTERATION OF NONCONFORMING USES
 - 1. Normal maintenance and repair in a building or structure occupied by a nonconforming use is permitted provided it does not expand or enlarge the nonconforming use.
- F. DAMAGE OR DESTRUCTION OF NONCONFORMING STRUCTURES
 - 1. Any nonconforming building or structure or any building or structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and used as before if the reconstruction is done within two (2) years of such damage, unless such building or structure has been declared by the County Building Inspector to have been damaged to an extent exceeding fifty (50) percent of its assessed value at the time of destruction. If the building is damaged to a degree greater than fifty (50) percent, future use of the building and site must be in conformance with this Ordinance.
- G. NONCONFORMING LOTS
 - 1. Applicability
 - a. Nonconforming lots do not conform to the minimum lot size or dimensional criteria of this Ordinance or the Subdivision Ordinance.
 - b. Existing Lots of Insufficient Size
 - c. When a legally-created, nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum lot size or dimensions, then the lot may be used just as if it were conforming, provided that it meets other standards (e.g. – minimum setbacks).
 - d. Provided all other environmental requirements can be met, a lot where single family detached dwellings are permitted may be used for that purpose, subject to any other applicable requirements.
 - 2. Setback Requirements
 - a. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the entity authorized to issue a permit for the proposed use shall allow deviations from the applicable setback requirements provided that the setbacks are consistent with the adjacent properties or with the average setback of other setback-nonconforming properties on that side of the block.
 - 3. Reduction of nonconformity within Water Supply Watershed Protection Areas
 - 4. Within the water supply watershed protection areas of the County, no nonconformity shall be erected, replaced, repaired, or modified except in a way

that results in zero change or a net reduction of the nonconformity.

5. Landscaping, screening, and buffers shall be installed at the time improvements greater than 50% value are made to any nonconforming site.

3.4 DENSITY CREDITS OR SEVERABLE DEVELOPMENT RIGHTS

Density credits or severable development rights for dedicated rights-of-way shall be provided to a developer pursuant to N.C. GS § 136-66.10 or § 136-66.11. The County reserves the right to determine whether density credits or severable development rights shall be provided in any particular case.

3.5 RESERVED

ARTICLE 4. ZONING AND USE REGULATION

4.1 OFFICIAL ZONING MAP

- A. The “Official Zoning Map of Lenoir County, North Carolina”, hereinafter referred to as the “Official Zoning Map” or “zoning map” is hereby adopted by reference and is declared to be a part of this Ordinance. Lenoir County is hereby divided into districts whose locations and boundaries are shown on the “Official Zoning Map of Lenoir County.”
- B. The “Official Zoning Map of Lenoir County” shall be identified by the signature of the Chairperson, attested by the Clerk, and bearing the Official Seal of Lenoir County, under the following words: “This is to certify that this is the Official Zoning Map of Lenoir County of the Zoning Ordinance for Lenoir County, North Carolina.” The date of the adoption shall also be shown.

4.1.2 PROCEDURES FOR AMENDING THE OFFICIAL ZONING MAP ARE SET FORTH IN ARTICLE 6

- A. If, in accordance with these provisions, amendments are made in the Zoning Districts or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the Board of Commissioners, together with an entry on the Official Zoning Map, indicating the date the change was adopted.
- B. No amendment shall become effective until such change shall be recorded on the Official Zoning Map.
- C. The Official Zoning Map shall be maintained for public inspection in the office of the Zoning Enforcement Administrator. Copies of the Official Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the clerk to the Board of County Commissioners in accordance with N.C. GS § 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map.

4.1.3 UNAUTHORIZED ALTERATION OF OFFICIAL ZONING MAP

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures established herein. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

4.1.4 LOCATION OF OFFICIAL ZONING MAP; STATUS OF REPRODUCTION

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 office of the Zoning Enforcement Officer (aka Administrator) shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the County.

4.1.5 REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Board of Commissioners of Lenoir County may by resolution adopt a new Official Zoning Map which shall supersede the prior Zoning Map. The new Official Zoning Map may correct drafting errors 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 unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts there of remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

4.2 ESTABLISHMENT OF GENERAL USE ZONING DISTRICTS

For the purposes of this Ordinance, Lenoir County is divided into the following use districts:

4.2.1 AR – AGRICULTURAL/RURAL

The regulations of this district are designed to retain the open characteristics of the land, but to allow moderate development, which conforms to the characteristics of the surrounding establishments. Such uses might include agricultural, low-density residential, commercial, and some light industrial uses.

4.2.2 RE – RESIDENTIAL

This district is designed to accommodate low- to moderate density residential uses.

4.2.3 C - COMMERCIAL

The purpose of this district shall be to provide for the proper grouping and development of those uses, which are related to municipal central business districts or neighborhood business areas. Such uses might include retail and wholesale use, office uses and those retail uses, which provide essential items for day to day living to neighboring residential areas.

4.2.4 I – INDUSTRIAL

This district is designed to accommodate all industries except those that could be objectionable by reason of their associated foul odors, smoke, dust, noise, glare or vibrations. Residential and commercial uses are strictly prohibited within an I - Industrial District.

4.3 DISTRICT USE REGULATIONS

The following table lists each zoning district and the various uses permitted within each of said zones. No land or building shall be used, erected, altered or enlarged, unless it is listed specifically among the permitted uses on the following table.

- A. Uses which are permitted within a district are indicated by the letter P.
- B. Uses which are prohibited within a district are indicated by a blank space or are not listed.

- C. Uses which are permitted within a district as a special use upon approval by the County Planning Board are indicated by the letter S.
- D. Uses not listed in any district may be added to this Ordinance by amendment.
- E. Supplementary regulations for each zoning district follow the Table of District Use Regulations.
- F. For information on the regulation of uses in the Global TransPark area, refer to the GTP Overlay.

4.4 TABLE OF PERMITTED USES

P= Permitted use (permitted by-right); S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).					
Specific Uses	Zoning Districts				Supplemental Standards
	AR	RE	C	I	
RESIDENTIAL					
<i>Household Living</i>					
Dwelling, Single-Family	P	P	P		
Dwelling, Two-Family (duplex)	P	P	P		
Dwelling, Manufactured Home, Class A & B	P	P	P		<u>5.19</u>
Dwelling, Multi-Family (3-5 units)	P	P	P		<u>5.2</u>
Dwelling, Multi-Family (greater than 5 units)	S	S	S		<u>5.2</u>
Manufactured Home Park ³	S	S			<u>5.19</u>
<i>Group Living</i>					
Boarding House	S	S	P	S	
Convalescent Home	P	P	P	S	
Family Care Home	P	P	P		<u>5.12</u>
Group Care Facility			S		
Migrant Labor Housing	P	P	S		
Nursing Home	P	P	S	S	
Residential Treatment Facility			S		<u>5.21.2</u>
All other group living (except as noted above)	S	S			
CIVIC/INSTITUTIONAL					
Adult Day Care Facility	S	S	P		<u>5.4</u>
Ambulance Service (private)	P		P	P	
Assemblies, Community (Assembly Hall, Armory Community Center)	P		P	S	
Bus Station	S		P	S	
Cemetery	P		S	S	
Church, Place of Worship	P	P	P	P	
Civic or Social Club or Lodge (Private)	S		P	S	
Day Care Center (more than 8)	P		P	S	<u>5.9</u>
Family Child Care Home	P	P			<u>5.12</u>
Fire Stations	P		P	P	
Government Offices	P		P	P	
Public parks and facilities, including grounds and for	P		P	S	

P= Permitted use (permitted by-right); S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental Standards
	AR	RE	C	I	
recreation, community center buildings, lakes, parks, and similar facilities operated on a non-profit basis					
Library, Public	P		P		
All other cultural exhibits/libraries (except as noted above)	P		P		
School, Elementary or Secondary	S	S	S	S	
School, Trade or Vocational	S	S	S	S	
All other schools (except as noted above)	S	S	S	S	
LODGING					
Bed and Breakfast Home (up to 8 rooms)	P	S	P		<u>5.6</u>
Hotels and Motels	S		P	S	
Campgrounds & Related Uses	S		S	S	
COMMERCIAL/ENTERTAINMENT					
Adult/Sexually Oriented Businesses			S	S	<u>5.5</u>
Alcoholic Beverages, Packaged, Retail Sales	S		P	P	
Auction Sales	P		P	P	
Bar/nightclub			S		
Billboards (A.K.A. Off-Premises Signs)	P		P		<u>5.7</u>
Car Wash	S		P	S	
Convenience Store w/out gasoline sales operations	S		P	S	
Convenience Store w/ gasoline sales operations	S		P		
Dry Cleaning and Laundry Collection	S		P	S	
Electronic Gaming Operation	P		P	P	<u>5.10</u>
Event Center Limited	P		P		<u>5.11</u>
Farm Machinery Sales, Service, and Merchandising	S		P	S	<u>5.14</u>
Firing Range	S				
Golf, Miniature, Outdoor and for a Profit	P		S		
Golf Course	P	P	S		
Horseback Riding Stables	P				<u>5.16</u>
Kennels, Commercial	S				
Printing or Reproduction	S		P	S	
Race Tracks/Drag Strip	S				
Recreation, Indoor	S		S	S	
Recreation, Outdoor	S		S	S	
Retail, less than 5,000 square feet	P		P		
Retail, between 5,000 -10,000	S		S		

P= Permitted use (permitted by-right); S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental Standards
	AR	RE	C	I	
square feet					
Retail greater than 10,000 square feet			S		
All other Indoor Recreation and Entertainment	S		P		
All other Outdoor Recreation and Entertainment	S	S	S	S	
Residential Treatment Facility			S		
Restaurant	P		P	S	
All other retail sales (except as noted above)			P		
OFFICE/SERVICE					
Automated Teller Machine (freestanding)			P		
Automobile, Machinery, and Vessel – Sales, New and Used	S		P		
Automobile, Machinery, and Vessel – Parts and Accessories Sales	S		P		
Banks, Savings & Loan Companies & other financial Activities, including drive-in window service	S		P	P	
Bicycle Sale & Repair	P		P	S	
Clinic Service, Medical & Dental	P		P	S	
Exterminating Services	S		P	S	
Funeral Home	S		P	S	5.15, Crematoria permitted as an accessory use via a special use permit.
Health and Welfare Centers	S		P	S	
Hospital Or Sanitarium Care	S		P	S	
Research, Medical, or Dental Laboratory	S		P	P	
Laundromat Laundry or Dry Cleaning – Customer Self Service	S		P	S	
Locksmith, Gunsmith	S		P	S	
Office	P		P	S	
Office Supplies and Equipment Sales and Service	S		P	S	
Personal Services	P		P		
Pharmacy	S		P	S	
Photography, Commercial	S		P	S	
Professional Services	S		P	S	
Radio or Television Studio Activities Only	S		P	S	
Veterinary Animal Service	P		P	P	
All other office (except as noted above)			P		
AUTOMOTIVE					
Manufactured Home Sales	S			S	

P= Permitted use (permitted by-right); S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental Standards
	AR	RE	C	I	
Vehicle Rental/Leasing /Sales	S		P	P	
Vehicle Minor Repair and/or Body Work (Not including commercial wrecking, dismantling or storage of junked vehicles)	S		P	P	
Vehicle Major Repair and/or Body Work (Not including commercial wrecking, dismantling or storage of junked vehicles)				S	
INDUSTRIAL/WHOLESALE/STORAGE					
Artisan Manufacturing	P		P	P	
Bottling Plants	S		S	P	
Bottled Gas Distributing & Bulk Storage of Flammable Liquids & Gases	S		S	P	
Builders Supply	S		P	P	
Construction Storage	S		P	P	
Contractor's Yards & Outdoor Storage Areas	S		P	P	
Dairy Products, Wholesale and Processing	S		P	P	
Data Processing Facility				P	<u>5.8</u>
Dry Cleaning, Commercial	S		P	S	
Fabrication or Manufacturing	S		S	P	
Food Freezer Operation, Food Manufacturing and Storage	S		S	S	
Industrial Sales of Equipment or Repair Services	S		P	P	
Junk/Salvage Yard	S			S	<u>5.17</u>
Landfill, Land Clearing (publicly or privately owned)	S		P	S	
Landfill, Sanitary (publicly or privately owned); Landfill, Construction and Demolition Debris, (publicly or privately owned)	S		S	S	
Livestock Sales and Auctioning	S				<u>5.18</u>
Microbrewery/Microdistillery/Microwinery	S		P	P	<u>5.20</u>
Mining Operations	S				
Processing Establishment, Indoor	S		P	S	
Railroad Yard	S				
Sawmill/Chipping Mill	S		S	S	
Slaughterhouse/Abattoir	S				
Storage, Indoor (including Warehousing)	P		S	P	
Storage, Outdoor	S		P		<u>5.24</u>
Storage, Mini-warehouse (self-storage)	S		P	S	

P= Permitted use (permitted by-right); S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental Standards
	AR	RE	C	I	
Truck Terminal Activities, Repair, Hauling &/or Storage	S		P	S	
Winery	S		P	P	
Wholesale Operations, Indoor	S		P	S	<u>5.26.1</u>
Wholesale Operations, Outdoor	S		P	S	<u>5.26.2</u>
All other Industrial related uses (except as noted above)				S	
All other Warehousing, Wholesaling, and Freight Movement (except as noted above)				P	
AGRICULTURAL					
Bona-fide Farms and Associated Operations	P	P	P	P	See NC G.S. §160D-903.
Ranching, Grazing, Livestock, and Other Agricultural Operations <u>not</u> Qualified as Bona-fide Farms	P				See NC G.S. §160D-903.
Hatchery	S		S	S	
Nursery (Plants), Greenhouses	P	P	S	S	
UTILITIES AND OTHERS					
Public Utilities	P	P	P	P	<u>5.21</u>
Public Utility Station or Substation	P		P	S	<u>5.21.1</u>
Public Utility Works, Shops or Storage Yards	S	S	S	S	
Sludge (by-product of wastewater treatment) field application	S				
Solar Energy Facility – Less than 10-acre footprint	P		P	P	<u>5.22</u>
Solar Energy Facility – ≥ 10-acre footprint	S			S	<u>5.22</u>
Transfer Station, Recycling/ Garbage Convenience Centers	P		P	S	
Transfer Facility, Solid Waste (publicly owned)	S		P	S	
Wind Energy Facility, Small	S		S	P	<u>5.24</u>
Wind Energy Facility, Large			S	S	<u>5.24</u>
Wireless communications facilities, 60 feet tall or less	P		P	P	<u>5.25</u>
Wireless communications facilities, more than 60 feet tall	P		P	P	<u>5.25</u>
ACCESSORY AND HOME OCCUPATION					
Accessory Structures	P	P	P	P	
Accessory Uses	P	P	P	P	
Dwelling, Accessory or Caretaker	P	P	P		
Home Occupation	P	P	P		<u>5.3.4</u>

4.5 TABLE OF DIMENSIONAL REQUIREMENTS

ZONING	IMPROVEMENTS	LOT AREA (SQ. FT.)	MINIMUM LOT DEPTH (FT.)	LOT WIDTH (FT.) ON CUL-DE-SAC BULB	LOT FRONTAGE (FT.)
All others except AR	Public water and sewer	7,000*	100	40	40
All others except AR	Public water and no public sewer	10,000	120	50	40
All others except AR	No public water or public sewer	15,000	150	60	40
AR/Agricultural/Rural		25,000			
Notes: <i>See 5.2 for additional requirements for attached residential.</i>					

4.6 ESTABLISHMENT OF ZONING OVERLAY

Zoning overlay districts apply additional criteria to the underlying general use zoning district. The overlay regulations are more restrictive and supersede the conventional zoning district standards. Where any conflict exists, the conditions of the overlay district shall apply.

A. GLOBAL TRANSPARK (GTP) OVERLAY, also known as the GTP Overlay.

1. This district is established to recognize the authority of the North Carolina Global TransPark, pursuant to N.C.GS § 63A in general and to N.C.GS §63A-18 in particular. This area is recorded on the County’s official zoning map and also applies to all properties outside of that area owned by GTP. The GTP Overlay is not the entire area subject to Global TransPark authority, but it is the area most immediately relevant to current day operations and planning activities. This area may be amended by Global TransPark as needed from time-to-time.

B. RECOGNITION OF GTP AUTHORITY

1. Nothing herein shall supersede the authority conferred in N.C.GS §63A or other state statutes related to GTP. Accordingly, no local review or approval required for development on property owned by the GTP.
2. Procedures for amending the overlay or its conditions are the same as a rezoning (for map boundary amendment) or ordinance text amendment (for changes to the regulations).
3. Land use regulation within the GTP overlay is subject to the following Table of

Permitted Uses, which can be relied upon unless GTP provides other guidance or restriction, including, but not limited to additional provisions for landscaping, setbacks, buffering, or exterior building materials and design. Approval may be subject to legal review by GTP counsel and further review by the GTP Executive Director or designee. Property owned by the GTP, may be subject to additional regulations, including the GTP Exclusive Zoning Ordinance, and others as required by the GTP.

4. Site plan approval is required for uses noted below. The site plan shall include the follow:
 - a. All proposed improvements at the proposed location.
 - b. Building footprint dimensions and the total finished square footage of buildings.
 - c. Any other information determined necessary by Administrator or GTP to ensure compliance with this Ordinance.

4.6.2 GLOBAL TRANSPARK TABLE OF PERMITTED USES

Global TransPark Overlay Table of Permitted Uses					
P= Permitted use (permitted by-right); P*=Permitted with site plan approval; S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).					
Specific Uses	Zoning Districts				Supplemental standards in this column are in addition to any non-conflicting standards listed in Article 5, Supplemental Design Standards
	GTP-AR	GTP-RE	GTP-C	GTP-I	
RESIDENTIAL					
Household Living					Discouraged within current or future flight paths.
Dwelling, Single-Family	p*	p*			
Dwelling, Two-Family(duplex)			p*		
Dwelling, Manufactured Home, Class A & B	p*	p*	p*		
Dwelling, Multi-Family (3-5 units)			S		<u>5.2</u>
Dwelling, Multi-Family (greater than 5 units)			S		<u>5.2</u>
Manufactured Home Park ³		S			<u>5.19</u>
Group Living					
Boarding House		S	p*		
Convalescent Home	p*	p*	p*		
Family Care Home	p*	p*	p*		<u>5.12</u>
Group Care Facility			S		
Migrant Labor Housing	p*	p*			
Nursing Home		p*	p*		
CIVIC/INSTITUTIONAL					
Adult Day Care Facility			p*		<u>5.4</u>
Ambulance Service, public/private	p*		p*	p*	
Assemblies, Community (Assembly Hall, Armory Community Center)	p*		p*		
Bus Station			p*		
Cemetery	p*		S		
Church, Place of Worship	p*	p*	p*		
Civic or Social Club or Lodge (Private)	S		S		
Day Care Center (more than 8)			p*		<u>5.9</u>
Family Child Care Home	p*	p*			<u>5.12</u>
Fire Stations	p*		p*	p*	
Government Offices	p*		p*	p*	
Public parks and facilities, including grounds and for recreation, community center buildings, lakes, parks, and similar facilities operated on a non-profit basis	p*		p*		
Library, Public			p*		
All other cultural exhibits/museums (except as noted above)	p*		p*		
School, Elementary or Secondary			p*		

Global TransPark Overlay Table of Permitted Uses

P= Permitted use (permitted by-right); P*=Permitted with site plan approval; S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental standards in this column are in addition to any non-conflicting standards listed in Article 5, Supplemental Design Standards
	GTP-AR	GTP-RE	GTP-C	GTP-I	
School, Trade or Vocational			P*	P*	
All other schools (except as noted above)			P*	P*	
LODGING					
Bed and Breakfast			S		<u>5.6</u>
Hotels and Motels			P*		
Campgrounds & Related Uses			S		
COMMERCIAL/ENTERTAINMENT					
Adult/Sexually Oriented Businesses					<u>5.5</u>
Alcoholic Beverages, Packaged, Retail Sales (ABC Stores)			P*		
Apparel & Accessory Sales (Dept. Stores)			P*		
Auction Sales	P*		P*	P*	
Billboards (Off-Premises Signs)	P*		P*	P*	<u>5.7</u>
Car Wash			P*		
Convenience Store w/out gasoline sales operations			P*		
Gasoline Sales Operation w/ Accessory Convenience Store					
Dry Cleaning and Laundry Collection			P*		
Electronic Gaming Operation					<u>5.10</u>
Restaurant (Drive-thru Service Included)			P*		
Firing Range	S				
Golf, Miniature, Outdoor and for a Profit			S		
Golf Course	P*	P*	S		
Horseback Riding Stables	P*				<u>5.16</u>
Kennels, Commercial			P*		
Printing or Reproduction			P*		
Recreation, Indoor			P*		
Recreation, Outdoor			P*		
All other Indoor Recreation and Entertainment			P*		
All other Outdoor Recreation and Entertainment		S	S		
Retail, less than 5,000 square feet			P*		
Retail, between 5,000 -10,000 square feet			S		
Retail greater than 10,000 square feet			S		
Restaurant (No Drive-thru Service)			P*		
All other retail sales (except as noted above)			P*		
OFFICE/SERVICE					
Automated Teller Machine			P*		

Global TransPark Overlay Table of Permitted Uses

P= Permitted use (permitted by-right); P*=Permitted with site plan approval; S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental standards in this column are in addition to any non-conflicting standards listed in Article 5, Supplemental Design Standards
	GTP-AR	GTP-RE	GTP-C	GTP-I	
(freestanding)					
Automobile, Machinery, and Vessel – Sales, New and Used			p*		
Automobile, Machinery, and Vessel – Parts and Accessories Sales			p*		
Bank or Loan Services, including Drive-through services			p*		
Clinic Service, Medical & Dental			p*		
Exterminating Services			p*		
Funeral Home			p*		5.15, Crematoria permitted as an accessory use via a special use permit.
Hospital			p*		
Research, Medical, or Dental Laboratory			p*		
Laundromat, Laundry or Dry Cleaning – Customer Self Service			p*		
Locksmith, Gunsmith			p*		
Office			p*		
Office Supplies and Equipment Sales and Service			p*		
Pharmacy			p*		
Photography, Commercial			p*		
Personal Services			p*		
Professional Services			p*		
Radio or Television Studio Activities Only			p*		
Tailoring			p*		
Veterinary Animal Service	p*		p*		
All other office (except as noted above)			p*		
AUTOMOTIVE					
Manufactured Home Sales			S		
Vehicle Rental/Leasing /Sales			p*		
Vehicle Minor Repair and/or Body Work (Not including commercial wrecking, dismantling or storage of junked vehicles)			p*	p*	
Vehicle Major Repair and/or Body Work (Not including commercial wrecking, dismantling or storage of junked vehicles)				S	
INDUSTRIAL/ WHOLESALE/ STORAGE					
Aerospace, Aviation, and Advanced Manufacturing – including associated repair, operations, terminals, hangers, training, parts manufacturing and assembly, shipping, etc.			p*	p*	These uses specifically relate to GTP operations.

Global TransPark Overlay Table of Permitted Uses

P= Permitted use (permitted by-right); P*=Permitted with site plan approval; S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental standards in this column are in addition to any non-conflicting standards listed in Article 5, Supplemental Design Standards
	GTP-AR	GTP-RE	GTP-C	GTP-I	
Artisan Manufacturing	P*		P*	P*	
Bottling Plants			S	P*	
Bottled Gas Distributing & Bulk Storage of Flammable Liquids & Gases			S	P*	
Builders Supply			P*	P*	
Construction or Contractor Storage (Indoor or Outdoor)	P*		P*	P*	
Dairy Products, Wholesale and Processing				P*	
Dry Cleaning, Commercial			P*	P*	
Fabrication or Manufacturing			P*	P*	
Food Freezer Operation, Food Manufacturing and Storage			P*	P*	
Junk/Salvage Yard	S				<u>5.17</u>
Landfill, Land Clearing (privately owned)	S				
Landfill, Sanitary (publicly or privately owned); Landfill, Construction and Demolition Debris, (publicly or privately owned)	S				
Microbrewery/Microdistillery/Microwinery	S		P*		<u>5.20</u>
Mining Operations	S				
Processing Establishment with operations conducted within a building			P*	P*	
Railroad Yard	S			P*	
Sawmill/Chipping Mill	P*				
Slaughterhouse	S				
Storage, Indoor (including Warehousing)	P*		S	P*	
Storage, Outdoor	S			P*	<u>5.24</u>
Storage, Mini Warehouse (self-storage)			P*		
Truck Terminal			P*	P*	
Winery	S		P*		
Wholesale Operations, Indoor			P*	P*	<u>5.26.1</u>
Wholesale Operations, Outdoor			P*	P*	<u>5.26.2</u>
All other Industrial related uses (except as noted above)				P*	
All other Warehousing, Wholesaling, and Freight Movement (except as noted above)				P*	
AGRICULTURAL					
Bona-fide Farms and Associated Operations	P	P	P	P	See NC G.S. §160D-903.
Ranching, Grazing, Livestock, and	P				See NC G.S. §160D-903.

Global TransPark Overlay Table of Permitted Uses

P= Permitted use (permitted by-right); P*=Permitted with site plan approval; S= Special Use Permit required; <blank cell> = Prohibited use (or existing nonconforming).

Specific Uses	Zoning Districts				Supplemental standards in this column are in addition to any non-conflicting standards listed in Article 5, Supplemental Design Standards
	GTP-AR	GTP-RE	GTP-C	GTP-I	
Other Agricultural Operations <u>not</u> Qualified as Bona-fide Farms					
Hatchery	S				
Livestock Sales and Auctioning	S				<u>5.18</u>
Nursery (Plants), Greenhouses	P		P		
UTILITIES AND OTHERS					
Public Utilities	P	P	P	P	<u>5.21</u>
Public Utility Station or Substation	P	P	P	P	Permitted in RE district only if it is serving the neighborhood and is not a regional station or regional substation.
Public Utility Works, Shops or Storage Yards			p*	p*	
Residential Treatment Facility			S		<u>5.21.2</u>
Sludge (by-product of wastewater treatment) field application	S				
Solar Energy Facility: Less than 10-acre footprint	p*		p*		<u>5.22</u> , Subject to restrictions related to airport operations.
Solar Energy Facility: ≥ 10-acre footprint			p*		<u>5.22</u> , Subject to restrictions related to airport operations
Transfer Station, Recycling/Garbage Convenience Centers	p*		p*	p*	
Transfer Facility, Solid Waste (publicly owned)			S	p*	
Wind Energy Facility					
Wireless communications facilities, 60 feet tall or less	p*		p*	p*	<u>5.25</u> , Subject to restrictions related to airport operations.
Wireless communications facilities, more than 60 feet tall	S		S	p*	<u>5.25</u> , Subject to restrictions related to airport operations.
ACCESSORY, TEMPORARY, AND HOME OCCUPATION					
Accessory Structures	P	P	p*	p*	
Accessory Uses	P	P	p*	p*	
Dwelling, Accessory/Caretaker	P	P	p*		
Home Occupation	P	P	P		

4.6.3 GLOBAL TRANSPARK TABLE OF DIMENSIONAL REQUIREMENTS

ZONING	IMPROVEMENTS	LOT AREA (SQ. FT.)	MINIMUM LOT DEPTH (9FT.)	LOT WIDTH (FT.) ON CUL-DE-SAC BULB	LOT FRONTAGE (FT.)
All others except GTP-AR	Public water and sewer	10,000	100	40	40
All others except GTP-AR	Public water and no public sewer	15,000	120	50	40
All others except GTP-AR	No public water or public sewer	20,000	150	60	40
GTP-AR/Agricultural/Rural		35,000			

ARTICLE 5. SUPPLEMENTAL DESIGN STANDARDS

5.1 INTRODUCTION

The following supplemental and general design standards pertain to the uses listed in the Table of Permitted Uses located in Article 4. In order for a use to be legally established it shall conform to the following standards. Any legally-established use that does not meet the standards below is considered a legal nonconformity.

5.2 GENERAL DESIGN STANDARDS

5.2.1 STANDARDS FOR MULTI-FAMILY, NONRESIDENTIAL, AND COMMERCIAL BUILDINGS, EXCLUDING INDUSTRIAL

A. APPLICABILITY

1. The following standards do not apply to industrial uses.
2. The following regulations apply to all new construction or expansion of existing nonresidential or commercial use buildings and multi-family residential buildings, to the extent that it does not conflict with NC G.S. §160D-702(b). These requirements shall be in effect for both the development of individual buildings and parcels with two or more buildings on a single parcel. In any three-year period, any overall or combined renovation of more than 50% of the outside of a building shall adhere to the standards herein.
3. The following standards apply to multi-family, nonresidential and commercial use buildings located within 300 feet from the right-of-way of the following corridors:
 - a. US 70, US 258, NC 11, NC 55, NC 58 and the C.F. Harvey Parkway.

5.2.2 NONRESIDENTIAL AND COMMERCIAL

A. SITE PLAN

1. A site plan is required for uses covered in this section.

B. EXTERNAL MATERIALS STANDARDS

1. There are no standards for roofing materials, pitch, or shape.
2. The exclusive use of metal siding is prohibited and no more than 50% of the structure's exterior materials or accents may be metal, with the exception of metal fastenings and trim.
3. The external facades shall be consistent around the entirety of the structure which are visible from the public right of way.

C. FOUNDATION PLANTINGS

1. Evergreen shrubs or decorative grasses with a minimum height of 18 inches shall be located within 10 feet of any building foundation wall along at least 40% of the building frontage that is visible from a public street.

D. OTHER DESIGN REQUIREMENTS

1. Points of access and egress shall consist of driveways or roadways at least twenty feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
2. Parking areas shall have a stabilized surface with parking spaces and traffic lanes marked.
3. Appropriate site distance triangles shall be maintained at driveways.
4. Any courtyard created by the placement of the buildings shall provide adequate access for emergency vehicles.

5.2.3 MULTI-FAMILY

A. DENSITY AND LOT SIZE

1. For duplexes minimum lot size is increased by fifty-percent.
2. Attached residential (3-5 units) must be served by public water and sewer and minimum lot size is ½ acre.
3. Multi-family (>5 units) must be served by public water and sewer, minimum lot size is 1 acre, and the maximum density is 10 dwelling units per acre.

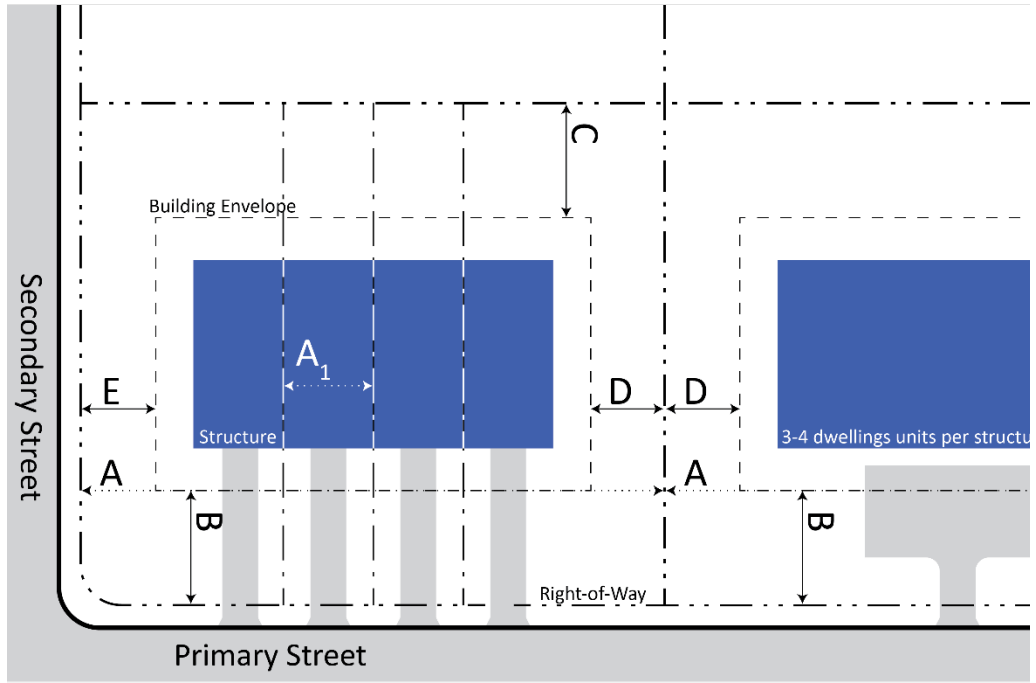
B. OPEN SPACE REQUIREMENTS

1. All multi-family developments greater than 4 units must provide 12% open space (measured as a percentage of the gross area of development) with a minimum width of 20' of frontage on at least one public street within the development.

C. DESIGN STANDARDS

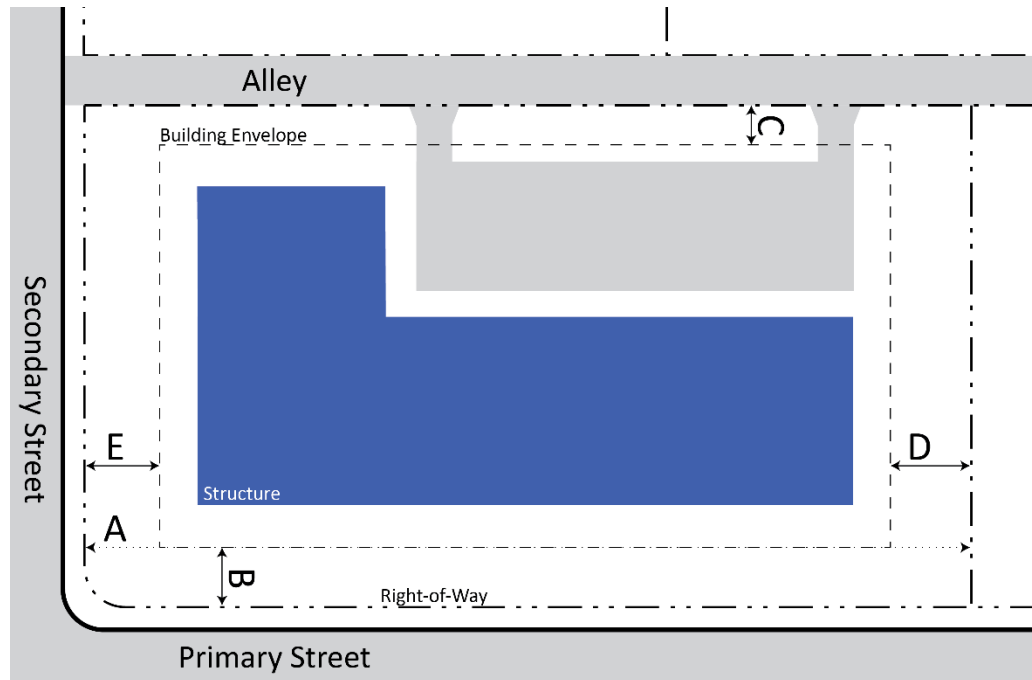
1. Multi-family residential buildings shall be separated by a minimum of 25'.
2. Front-loaded
 - a. Any parking areas in the front yard must be sufficiently deep enough that they do not encroach on the right-of-way or pedestrian ways. Garage doors shall be set back at least 25' from the sidewalk to allow for parking and walking between the vehicle and the structure.
 - b. Impervious surface associated with parking, pedestrian access, service areas, and driveways, for front-loaded house-scaled townhomes or multifamily structures may not occupy more than 60% of the required front yard, measured in aggregate for the entire structure and associated lot.

Figure 5-1 Front Loaded Multi-Family



3. Alley-loaded
 - a. Alley-loaded townhomes shall have parallel, on-street parking in the front. If the townhomes are fronting a central green or common courtyard with no vehicular areas then an equivalent number of parking spaces shall be provided in an accessible, adjacent, off-site parking location.

Figure 1-2 Alley-Loaded Multi-Family



5.3 ACCESSORY AND HOME OCCUPATION USES

5.3.1 ACCESSORY DWELLING UNIT (ADU)

- A. NUMBER OF ACCESSORY DWELLING UNITS
 1. Only one (1) accessory dwelling unit shall be permitted per lot.
- B. SIZE
 1. The accessory dwelling unit shall not exceed seventy- five percent (75%) of the heated floor area of the principal dwelling unit or a maximum of 2,000 square feet. Any accessory dwelling unit may be established at a minimum of 500 square feet, regardless of principal structure area.
- C. SETBACKS
 1. Must meet all setback requirements for accessory uses, buildings, structures, and an additional twenty (20) foot separation from the principal dwelling. The additional 20-foot separation does not apply to ADUs constructed on top of a

garage.

D. MISCELLANEOUS PROVISIONS

1. The accessory dwelling unit may be a manufactured home if it meets all the criteria outlined in this section and is permitted by the underlying zoning district.
2. No accessory dwelling unit shall be permitted on a lot with a two-family duplex or multi-family dwelling or family care home.
3. The accessory dwelling unit shall be accessed by a lockable external entrance.
4. Certification from the Environmental Health Department is required to assure any septic system can accommodate the accessory dwelling unit, if applicable.

5.3.2 ACCESSORY STRUCTURE

A. LOCATION

1. No detached accessory building or use shall be located closer than 5' from the side or rear lot line and any other building or mobile home. Accessory buildings may not encroach within 20' of any street right-of-way.
2. One detached garage (functioning as an accessory structure) may be placed past the front or side façade of the principal structure provided that the accessory structure does not exceed half the heated floor area of the principal structure, does not exceed the height of the principal structure, and meets all applicable setbacks. Otherwise, accessory structures are not allowed in the front or street yard unless they are at least 50 feet from the right of way or street.
3. Accessory Structures must be placed in the rear yard or the non-street side yard on corner lots, and rear and side yard of other lots; however, if the lot is located adjacent to the golf course, the accessory structure may be placed between the road and the principal structure provided it does not encroach into the required setbacks or any other regulated features.

B. MISCELLANEOUS PROVISIONS

1. No accessory building or structure may be established on a lot prior to the issuance of all requisite permits and approvals for the primary structure or building on the lot.
2. Class A, B, or C manufactured homes or recreational vehicles may not be used for accessory structures, except as permitted above for accessory dwelling units.

5.3.3 CREMATORIUM

A. LOCATION

1. Separation Requirements
 - a. No new crematorium operation may be located within 1,500 feet from an existing crematory facility.

B. SCREENING AND FENCING

1. All windows in the building with an open view of the crematory processing equipment must be screened from view with landscaping including evergreens with minimum 50% coverage and shall be at least 6' tall within three years of planting.

2. The loading/unloading zone for the facility must be enclosed or screened from view with fencing.
- C. DESIGN
1. All facilities must comply with NC State licensing requirements and there shall be no emission of particulate matter or noticeable odors.

5.3.4 HOME OCCUPATION

- A. Such use shall not generate significantly greater volumes of traffic than would be expected in that residential neighborhood.
- B. The home occupations listed above shall be permitted subject to the following limitations:
1. No exterior display of products.
 2. The use shall not emit any obnoxious or offending noise, dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio or television reception beyond what normally occurs in the applicable zoning district, and shall not present a fire hazard.
 3. Not more than 25% of the total floor area or 500 square feet, whichever is less, shall be used for a home occupation when located within the principal structure.
 4. 100% of an accessory structure may be used for the home occupation: (1) if located to the side or rear of the principal structure; and (2) the total floor area of the accessory structure does not exceed 50% of the gross floor area of the principal structure.
 5. Only one employee may be employed by the home occupation who is not a resident of the dwelling.
 6. The on-premises sale and delivery of goods which are not produced on the premises is prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.

5.4 ADULT DAY CARE FACILITY

5.4.1 DESIGN

- A. COMPATIBILITY WITH EXISTING CHARACTER
1. When located in a AR and RE district, the facility must be compatible with the neighborhood character (i.e. – meet surrounding setbacks, materials and design consistent with surrounding structures).
 2. Any outdoor recreational or gathering areas shall be screened from view from adjacent residential properties and public rights-of-way.
- B. DROP-OFF/PICK-UP AREA
1. An off-street drop-off and pick-up loading area shall be provided.

5.4.2 MISCELLANEOUS PROVISIONS

- A. Such use must not allow any adult to remain on the premises for more than twenty-four (24) consecutive hours in one stay.

5.5 ADULT/SEXUALLY ORIENTED BUSINESS

5.5.1 LOCATION

A. SEPARATION REQUIRMENTS

- 1. Such use shall not lie within one thousand five hundred (1,500) feet in any direction of any residentially developed property.
- 2. Such use shall be a minimum of one thousand five hundred (1,500) feet in any direction from any other adult/sexually oriented business.
- 3. Such use shall not lie within one thousand five hundred (1,500) feet in any direction of any religious use, such as a church, place of worship or synagogue.
- 4. Such use shall not lie within one thousand five hundred (1,500) feet in any direction near any public or private school, day care center, or family childcare home.
- 5. Such use shall not lie within one thousand five hundred (1,500) feet in any direction near any eating or drinking facility.
- 6. Such use shall not lie within one thousand five hundred (1,500) feet in any direction near any lot or parcel on which a cemetery, public playground, public swimming pool, or public park is located.

5.6 BED AND BREAKFAST HOME

5.6.1 DESIGN

A. NUMBER OF ROOMS

- 1. Such use shall have no more than 8 guest rooms.

B. SIGNAGE

- 1. Signage shall be limited to one (1) identification sign not to exceed four (4) square feet in in area and four (4) feet in height.

C. PARKING

- 1. Off-street parking at 1 per guest room and 1 for owner/manager.

5.6.2 MISCELLANEOUS PROVISIONS

- A. Such uses shall be located in a dwelling in which there is a resident owner or manager.
- B. Meet all applicable local and State health and building code requirements.

5.7 BILLBOARDS, OUTDOOR ADVERTISING SIGNS (OFF-PREMISES SIGNS)

5.7.1 LOCATION

A. DISTRICTS

- 1. Such signs shall be permitted only in the AR and C districts, and in the Global TransPark Overlay District as specified in Section 4.6.2.

B. SEPARATION REQUIREMENTS

- 1. Each sign shall be a minimum of 1000’ separation between signs, regardless of side of the road. The distance shall be measured radially from the proposed sign location to the existing sign location.

2. Such signs shall be a minimum of 500' from any residentially developed property, whether within the jurisdictional limits of the County or not.
- C. SETBACKS
1. The nearest point of any such signs shall be setback a minimum of 50' from the public right-of-way, any adjacent lot, or any legal private access road.

5.7.2 HEIGHT

- A. Such signs shall not exceed 30' in height in the GTP Overlay or 40' elsewhere. The height of a sign shall be computed as the distance from the base of the supporting structure or pole(s) at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be either existing grade prior to construction or newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

5.7.3 SIGN FACE AREA

- A. COMPUTATION OF SINGLE-FACED SIGNS
1. The area of a sign face shall be computed by means of the smallest square or rectangle, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework.
- B. MAXIMUM SIZE
1. 384 square feet along Highway 258 and 58.
 2. 160 square feet along collector streets.

5.7.4 INSTALLATION, DESIGN, AND MAINTENANCE

- A. INSTALLATION
1. Billboards shall meet thirty PSF wind loading requirements, and all supports shall be of steel, aluminum, concrete, or other non-combustible material.
- B. DESIGN
1. Any sign that incorporates a computer screen, electronic images, or electronic characters or flashing lights is prohibited.
 2. Lighting directed toward such sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
 3. Such sign structure, including the back, shall be painted in a neutral color to blend in with the background environment of the site.
 4. There shall be only one face per side of the sign.
- C. MAINTENANCE
1. Every sign and its supports, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept free from

defective or missing parts or peeling paint and shall be sufficiently stabilized to withstand wind damage.

2. A sign shall have no more than ten (10) percent of its surface area covered with disfigured, cracked, ripped, or peeling paint, poster paper, or other material for a period more than fourteen (14) successive days.
3. A sign shall not have weeds, vines, or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of-way from which it is to be viewed, for a period of more than fifteen (15) successive days.

5.7.5 SUBMITTAL REQUIREMENTS

The applicant shall submit the following information for each proposed sign:

- A. A site plan, at an appropriate scale, which illustrates the following items within two thousand (2,000) feet of the proposed sign:
 1. Location of proposed sign;
 2. Setbacks;
 3. Right-of-way lines;
 4. Buildings;
 5. Roads;
 6. Existing billboard signs.
- B. An elevation drawing and description, if necessary, of the proposed sign which includes:
 1. The dimensions of the sign and the sign structure;
 2. The area of the sign face;
 3. Illumination;
 4. Colors and materials;
 5. Any other relevant features of the sign.
- C. Any other information determined necessary by Administrator to ensure compliance with this Ordinance and the state building code.

5.7.6 RECONSTRUCTION OF DAMAGED SIGNS

Any conforming or permitted nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30) days and completed within sixty (60) days of such damage. However, if the sign should be declared unsafe by the Administrator, the owner of the sign or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the Administrator.

5.8 DATA PROCESSING FACILITY (LARGE SCALE, GREATER THAN 9,000 SQUARE FEET FLOOR AREA)

5.8.1 LOCATION

A. SEPARATION REQUIREMENTS

All equipment and structures shall be a minimum of fifty feet from the boundary of the facility as delineated on the site plan, and one-quarter mile (1,320 feet) from any church, school, or residence.

5.8.2 DESIGN

A. HEIGHT

1. Systems, equipment, and structures (excluding electric transmission lines and utility poles) shall not exceed 35 feet in height.

B. STRUCTURAL

1. The facility shall meet all requirements of the North Carolina State Building Code.
2. Any electric wiring shall be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.

C. ACCESS

1. All roads shall be sufficient width to accommodate emergency vehicle access as determined by the Lenoir County Fire Marshal.

5.8.3 LANDSCAPING AND BUFFERING

A. STREET YARD REQUIREMENTS

1. A minimum 10-foot perpetually maintained natural or planted buffer yard shall be provided to screen the nonresidential use 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 forty linear feet of road frontage and each tree shall be a minimum of 8 feet in height 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 that 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 trees and shrubs should be planted within a landscaping bed consisting of natural mulch with a minimum depth of 3 inches to improve growth and performance over time. 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

1. When abutting a residentially-used, a minimum 10-foot perpetually maintained natural or planted buffer yard shall be provided along all adjoining property lines that do not coincide with road rights-of-way.
2. The required property line buffer yard shall contain one canopy tree for each

forty linear feet of property line adjoining such lots.

5.8.4 SECURITY FENCING

- A. Security fencing, a minimum of eight feet in height, may be provided along the entire perimeter of the facility.

5.8.5 ABANDONMENT

It is the responsibility of the owner to notify Lenoir County and to remove all obsolete or unused systems. Any structure or equipment associated with the facility that is not operated for a continuous period of three hundred sixty-five (365) days shall be considered abandoned, and the County may require the owner to remove such structures and equipment within 90 days after notice from the County. If the abandoned structure or equipment is not removed within 90 days, the County may remove it and recover its costs from the owner. If the owner of the abandoned structure or equipment cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the structure or equipment is located.

5.8.6 SITE PLAN REQUIRED FOR DATA PROCESSING FACILITY

A. SUBMITTAL REQUIREMENTS

1. A narrative describing the proposed data processing facility including an overview of the project;
2. A site plan showing the proposed location and dimensions of all equipment, existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, and the location of any church, school, or residence within one-quarter mile (1,320 feet) of the perimeter of the facility;
3. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, additional separation from surrounding uses, etc.;
4. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Lenoir County to ensure compliance with this Article; and
5. Signature of the property owner(s) and the owner/operator of the facility (if different than the property owner).

5.9 DAY CARE CENTER

5.9.1 DESIGN

A. OUTDOOR PLAY AREA

1. At least 50 square feet of outdoor play area shall be provided for each child. The outdoor play area shall be located at least 50 feet from the lot line of any

residential property and enclosed by a fence having a minimum height of four feet, which shall be maintained in good condition.

- B. DROP-OFF/PICK-UP AREA
 - 1. An off-street drop-off and pick-up loading area shall be provided.
- C. PARKING
 - 1. Off-street parking at a minimum of two spaces plus one per each employee.

5.9.2 HOURS OF OPERATION

- A. Such use shall only be permitted to operate between the hours of 6:00 AM and 10:00 PM.

5.9.3 SCREENING REQUIREMENTS

- A. A 50 percent visual screen to a minimum height of six feet is required adjacent to residentially used structures within 100' of the property line.

5.10 ELECTRONIC GAMING OPERATIONS

5.10.1 DEVELOPMENT REQUIREMENTS FOR AN ELECTRONIC GAMING OPERATION AS A PERMITTED USE

- A. Operation shall be subject to the following standards, in addition to any requirements of any other county ordinance that might apply:
 - 1. Hours of operation. Limited to 8:00 a.m. through 2:00 am., seven days per week.
 - 2. Alcohol sales or consumption are prohibited.
 - 3. Food or beverage service or distribution. Shall meet the requirements of the Lenoir County Health Department, including any and all permits and licenses.
 - 4. Occupancy limit, shall be set by the Fire Marshal for the establishment prior to submission of the electronic gaming operations permit application.
 - 5. Maximum daily cash payout. Shall not exceed \$600.00. Winnings that exceed this amount shall be paid out in the form of a check or credit. All establishments engaged in internet and sweepstakes operations must comply with all reporting requirements regulated by the Internal Revenue Service.
- B. Off-street parking. Adequate parking must be provided, including handicap accessibility. A driveway permit will be needed from NC Department of Transportation for any stand alone buildings.
- C. Location. Electronic gaming operations shall be located a minimum distance of 1,500 feet, determined by the Lenoir County GIS Coordinator, measured in a straight line in any direction from closest point of the building and parking lot of the proposed business to the property line of any of the following:
 - 1. A residence or the RE zoning district.
 - 2. A place of worship or other religious institution,
 - 3. A day care center or facility, public school, and/or private school.

- 4. A Public park, playground, and/or library.
- D. An adult entertainment establishment as regulated by the County of Lenoir.
- E. Electronic gaming operations may be within 1,500 feet of a residence if only one residence is within a 1,500-foot radius of the electronic gaming operation site and the owner of the residence signs an approval agreement. The approval agreement shall be recorded with the Lenoir County Register of Deeds.
- F. Sewage disposal. The health department shall test the lot for adequate sewage disposal characteristics. If the lot meets minimum requirements, the health department shall submit an improvements permit and construction authorization to the planning and development department.
- G. Exemption. A grandfather business may be exempt from the location enforcement of the ordinance, for the pre-ordinance, permitted operator only. If the pre-ordinance, permitted operator, ceases operation for any reason, any new business operator will not be exempt.

5.10.2 CERTIFICATE OF OCCUPANCY AND DEVELOPMENT PERMIT REQUIRED FOR NEW ELECTRONIC GAMING OPERATIONS

- A. It shall be unlawful for any person to maintain or operate an electronic gaming operation after the adoption of the ordinance from which this article derives, unless such person shall first obtain a permit and receive a certificate of occupancy.
- B. It shall be unlawful for any person to establish, alter, or make any additions to any electronic gaming operation until a building permit and a certificate of codes compliance have been issued.
- C. The Lenoir County Planning & Inspection Department may, after due notice, subject to the right of appeal, suspend or revoke the development permit for failure to maintain an electronic gaming operation in compliance with the provisions of this article.
- D. All electronic gaming operations existing on the effective date of the ordinance from which this article derives cannot expand unless such expansions comply with all applicable procedures and requirements of this article and all required permits of this and any other county ordinance have been obtained.

5.10.3 PROCEDURE FOR OBTAINING CERTIFICATE OF OCCUPANCY

- A. The applicant shall apply for an electronic gaming operations permit at the Lenoir County Planning & Inspection department. Cost and duration of permit determined by the Lenoir County Board of Commissioners.
- B. The application shall describe how the proposed electronic gaming operation will be in compliance with this article, if a certificate of occupancy is issued. The application shall include at least the following information plus any additional information deemed appropriate by the planning director or designee:
 1. A location map showing the location of the electronic gaming operation in relation to the surrounding area.
 2. The name of the electronic gaming operation plus the name(s) and address(es) of the owner(s).
 3. The proposed number and type of machines/terminals/computers.

4. Location and size of proposed signs.
5. Once all requirements have been met, a certificate of occupancy shall be issued which shall permit the electronic gaming establishment to operate in compliance with its electronic gaming operations permit and this article.

5.10.4 ANNUAL INSPECTION OF ELECTRONIC GAMING OPERATIONS

- A. The Lenoir County Planning & Inspection department and the county health department may conduct as many inspections of an electronic gaming operation as are deemed necessary to insure the maintenance of the applicable standards.
- B. The operator of an electronic gaming operation shall pay an annual inspection fee, which fee shall be payable initially upon application for the certificate of occupancy. As long as the electronic gaming operation remains in operation, the fee shall be paid annually.
- C. The certificate of occupancy for an electronic gaming operation may be revoked if the annual inspection fee is not paid or if the operator prevents the annual inspection from being carried out.

5.11 EVENT CENTER LIMITED

5.11.1 MINIMUM PROPERTY SIZE AND SITE LAYOUT

- A. In AR District the following requirements apply:
 1. Minimum property size for this use shall be 5 acres.
 2. All structures, seating and parking areas shall be set back at least two hundred (200) feet from any street or property line. This may be reduced to one hundred (100) feet if mature trees and vegetation exist with a width of at least one hundred (100) feet.
 3. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises but may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining properties.
 4. The parcel must have frontage on, or have direct access to, a NCDOT maintained road or a privately maintained paved street. Proposed access points on NCDOT roads must be approved by NCDOT. In the event that a privately maintained street is used to gain entry to the site, the applicant shall provide documentation from the private road owner(s) that access to the site for events is permitted.
 5. The facility must provide two parking spaces for the owner/operator, plus one for every four persons in attendance at events. Service providers (staff, caterers, etc.) should be included in this calculation at a rate of one for each employee or contracted staff member. The parking area shall remain grassed (no impervious coverage). However, handicap accessible parking is required to be an improved/hard, stable surface and to meet requirements of the North Carolina State Accessibility Code. No on-street parking is permitted.
 6. Other than as part of designated events, no meals shall be served to the general

public on the site.

7. Temporary tents shall be allowed for no more than 180 days in a calendar year.

5.11.2 SIZE AND CAPACITY LIMITATIONS

- A. Gathering, meeting or hosting area event space shall be limited to no more than 8,000 square feet in size.

5.11.3 ACCESSORY USES PERMITTED

- A. Accessory and/or ancillary uses shall be those directly related to the event being held. Examples are food and beverages service, dance floors, outdoor speakers, music, festive lighting, decorations, tents, etc.

5.12 FAMILY CARE HOME

5.12.1 SEPARATION REQUIREMENTS

- A. No other family care home may be located within a ½-mile radius of an existing family care home.

5.13 FAMILY CHILDCARE HOME

5.13.1 SEPARATION REQUIREMENTS

- A. No other family childcare home may be located within 500 feet of an existing family childcare home.

5.13.2 HOURS OF OPERATION

- A. Such use shall only be permitted to operate between the hours of 6:00 AM and 10:00 PM.

5.13.3 MISCELLANEOUS PROVISIONS

- A. Such use must be licensed through the NC Department of Health and Human Services.
- B. Such uses may have no more than nine (9) children present at any one time, no more than five (5) shall be preschool-aged, not including the operator's own preschool-aged children.

5.14 FARM MACHINERY SALES, SERVICE, AND MERCHANDISING

5.14.1 LOCATION AND DESIGN OF OUTDOOR STORAGE

- A. SETBACK
 - 1. Such use shall be setback a minimum of 30' from the public right-of-way and 20' off each property line.
- B. SIZE
 - 1. All outdoor storage areas shall not exceed 30,000 square feet.
 - 2. If outdoor storage areas exceed 30,000 square feet then a landscaped buffer or fencing is required. For the area of outdoor storage that exceeds 30,000 square

feet:

3. A landscaped buffer of one shrub, five feet on center, or one tree, fifteen feet on center shall be installed to screen the road-facing portion of the property.
4. In lieu of a landscaped buffer shall be screened by an opaque fence with a minimum height of six (6) feet.

5.14.2 OTHER REQUIREMENTS

A. STORAGE

1. The storage of junked, wrecked, or inoperable vehicles is not allowed.
2. The storage of any hazardous materials is not allowed.
3. The storage of any scrap, waste materials, trash, or other junk is not allowed.

5.15 FUNERAL HOMES

5.15.1 OFF-STREET PARKING AND STACKING REQUIREMENTS

- A. All funeral homes must provide the following off-street parking requirements; 1 per 5 seats in the main chapel and a minimum of 4 off-street vehicular stacking spaces.

5.16 HORSEBACK RIDING STABLES

5.16.1 MINIMUM LOT SIZE

- A. Such use shall be located on a lot or tract of at least five (5) acres.

5.16.2 SETBACK

- A. Such uses shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line.

5.17 JUNKYARDS

5.17.1 PROHIBITIONS

It shall be unlawful after the effective date of this ordinance for any person, firm, or corporation, or other entity, to begin operation in Lenoir County of a junkyard or automobile graveyard within 300 feet of the centerline of any public road, or 1,000 feet of a school, residence, or church nor can they be located within the 100-Year or 500-Year Floodplain as determined by the NFIP rate map. The residence of the owner of the junkyard or automobile graveyard shall be allowed on the premises without conforming to any distance requirements.

After the effective date of this ordinance, the operation of any pre-existing junkyard or automobile graveyard in Lenoir County, both inside and outside the municipalities located in the county excluding the City of Kinston and its Extraterritorial Jurisdiction, shall be unlawful except as provided in Sections V and VI.

5.17.2 EXCEPTIONS

- A. This ordinance shall not apply to service stations, repair shops or garages unless the operation thereof would also fall within the definition of junkyards or automobile graveyards as defined in Section 2.11 above.
- B. This ordinance shall not apply to junkyards or automobile graveyards whose operation is conducted indoors, rather than outdoors and which do not store any junk outside.
- C. This ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses.
- D. Any expansion to a pre-existing junkyard or automobile graveyard shall be considered a new establishment, and as such, the expanded part shall not be closer than 1000' to a church, school, or residence.
- E. Junkyards or automobile graveyards existing as of the effective date of this Ordinance may be operated and/or maintained without restrictions of this Ordinance, if said junkyard or automobile graveyard shall be surrounded by opaque fence as defined above where said fencing shall be necessary to screen the view of persons from public roads, schools, rural volunteer fire departments, churches, or residential areas, and where such screening is not already substantially provided by natural topography, or other natural barriers; provided, however, that nothing contained herein shall require fencing, as defined herein, which would not be substantially effective to create a barrier to the view of the public to said junkyard or automobile graveyard. Any fence used within the meaning of this subsection shall be a fence as defined in Section 2.11 above. The opaque fence shall be maintained in good condition. The opaque fence shall have at least one (1) gate for the purpose of ingress and egress.
- F. All new junkyards and/or automobile graveyards established in accordance with Section 5.17, and all pre-existing junkyards and/or automobile graveyards may be operated and maintained subject to the following conditions:
 - 1. The Lenoir County Health Department may inspect each junkyard and automobile graveyard to determine compliance with this ordinance and to determine that no vectors are present, and that it is not a health or safety nuisance. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department that vectors have been eliminated.
 - 2. The junkyard or automobile graveyard shall be entirely surrounded by an opaque fence at least eight (8) feet in height. Said fence shall surround the minimum area necessary for the junkyard or automobile graveyard to be maintained at its present size and that will also allow for a reasonable amount of maneuverability within.
 - 3. The Enforcement Officer shall be available to assist an owner, operator, or maintainer of a junkyard or automobile graveyard, upon request of the said owner, operator, or maintainer, in the formulation of plans for said fencing. The fence or wire fence shall be maintained in good order and shall not be allowed to

deteriorate.

4. All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of said fence at all times unless in motion by transport to or from the site.

5.17.3 NONCONFORMING AUTOMOBILE GRAVEYARDS AND JUNKYARDS EXISTING AT EFFECTIVE DATE OF THIS ORDINANCE

- A. All owners, operators, or maintainers of automobile graveyards and junkyards existing at the effective date of this ordinance shall register same with Lenoir County within a period of ninety (90) days beginning with the effective date of this ordinance. All existing automobile graveyards or junkyards that have not been registered within 90 days shall be in violation of the provisions of this ordinance.
- B. All existing automobile graveyards or junkyards at the effective date of this ordinance, registered in accordance with the preceding Section, shall be granted a grace period of twenty-four months from the effective date of registration to conform to ordinance provisions, thereafter same shall be in violation of this ordinance. The owners or operators of any automobile graveyard or junkyard existing at the effective date of this ordinance shall provide a plan to the Lenoir County Planning Board within six months of the effective date of this ordinance to show the Lenoir County Planning Board that the existing automobile graveyards or junkyards will conform with this ordinance, or that the automobile graveyards or junkyards are participating in the voluntary buy-out process related to Hurricane Floyd.

5.17.4 SITE PLAN REQUIRED FOR AUTOMOBILE GRAVEYARDS AND JUNKYARDS ESTABLISHED, RELOCATED, OR EXPANDED AFTER THE EFFECTIVE DATE OF THIS ORDINANCE

Owners or operators of junkyards and automobile graveyards established, relocated, or expanded after the effective date of this Ordinance shall present ten copies of a site plan which conform to the standards of this Ordinance to the Lenoir County Planning Board. The Planning Board shall review the site plan to insure conformity with the requirements of this Ordinance. No new automobile graveyard or junkyard shall be operated until the site plan has been approved by the Lenoir County Planning Board; provided, however, that if the Planning Board has not taken action within ninety (90) days after the first meeting of the Planning Board after the submission of the site plan, said site plan will be deemed to be approved.

5.17.5 ESTABLISHMENT OF NEW, RELOCATED, OR EXPANDED AUTOMOBILE GRAVEYARDS AND JUNKYARDS NOT ALLOWED ON PRINCIPAL HIGHWAY CORRIDORS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE

- A. LOCATION REQUIREMENTS
 1. Owners or operators of junkyards and automobile graveyards established,

relocated, or expanded after the effective date of this Ordinance are forbidden to locate along the principal highway corridors of Lenoir County. The principal highway corridors of Lenoir County are defined as US 70, US 258, NC 11, NC 58, NC 903, NC 55, NC 241, and CF Harvey Parkway. Junkyards and automobile graveyards are allowed to operate along secondary roads in Lenoir County which are not principal highway corridors, so long as they are operated in conformity with the other provisions of this ordinance and any applicable Ordinances.

B. EXCEPTION – EXISTING JUNKYARDS WHICH DO NOT EXPAND

1. This location restriction shall not apply to junkyards or automobile graveyards existing at the effective date of this ordinance, unless the junkyard or automobile graveyard is expanded. Existing facilities which are expanded after the effective date of this ordinance must comply with this section by relocating to sites which are not on principal highway corridors within six (6) months of the date of the expansion.,

C. EXCEPTION – PREVIOUSLY PURCHASED HURRICANE FLOYD BUYOUT SITES

1. This location restriction shall not apply to sites which were purchased for the express purpose of maintaining a junkyard or automobile graveyard on a principal highway corridor as part of the Hurricane Floyd Salvage Yard Buyout, if the site was purchased prior to March 4, 2002, the effective date of the temporary moratorium. The location restrictions in this section shall apply to all Hurricane Floyd Salvage Yard Buyout sites purchased after March 4, 2002.

5.18 LIVESTOCK SALES AND AUCTIONING

5.18.1 SEPARATION REQUIREMENTS

- A. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residential structure.

5.18.2 LANDSCAPING AND BUFFERING REQUIREMENTS

- A. All off-street parking lots, loading areas, and outside storage areas shall be screened from all adjoining residential uses.
- B. **LANDSCAPING REQUIREMENTS**
 1. Landscaping is required between outdoor storage areas and existing residential uses.
 2. Landscaping shall include evergreens with minimum 50% coverage and shall be at least 6' tall within three years of planting.

5.19 MANUFACTURED HOUSING PARK

5.19.1 PARK PLAN PREPARATION AND APPROVAL PROCEDURES

- A. No person shall commence or proceed with development without first securing approval from the County as herein provided. An approval made pursuant to this Ordinance attaches to and runs with the land.
- B. The construction or addition shall be in accordance with the plans and specifications as approved by the Planning Board and Board of Commissioners.

- C. Any approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the approval has not been substantially commenced. If after commencement the work or activity is discontinued for a period of 12 months after commencement, the approval shall immediately expire. The time periods set out in this Subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any approval that has expired shall thereafter be performed until a new approval has been secured.

5.19.2 SKETCH PLAN

- A. The developer may submit a sketch plan prior to submission of a detailed preliminary plan to the County Planning Department for a courtesy review. The Planning Department shall advise the developer of general compliance with the requirements of this Ordinance.
- B. The sketch plan should be drawn at a scale of not more than 1" = 100' and should contain information such as the name of the park, total acreage, conceptual space designation, street layout, cross sections, proposed drainage, proposed water & sewer service, and contact information regarding the developer and design professional.

5.19.3 PRELIMINARY PLAN

- A. Following sketch plan review, if applicable, the developer shall prepare a preliminary plan at a scale of 1" = 100' or less on an original reproducible plan showing the following information:
 - B. Mobile Home Park name
 - C. Name of Owner or Developer
 - D. Vicinity map
 - E. Dimensions and bearings of exterior property lines
 - F. Land contours and vertical intervals of not greater than two (2) feet
 - G. Proposed lot lines and numbers, and approximate dimensions
 - H. Lot size
 - I. Roads and easements in the vicinity
 - J. All existing and proposed structures
 - K. Road cross section details
 - L. Water system designed to meet state or county regulations
 - M. Sewage disposal designed to county and/or state standards
 - N. Drainage plan
 - O. Recreation areas
 - P. Street light locations
 - Q. Location of 100-year flood plain line
 - R. Buffer and landscaping plan if available
 - S. Sign location and dimensions
 - T. Parking spaces
 - U. Fire Hydrants existing and/or proposed

V. Proposed phasing of the park development, if applicable

5.19.4 PRELIMINARY PLAN APPROVAL

A. TECHNICAL REVIEW

1. Upon receipt of a properly prepared and submitted plan, the Planning Department shall obtain the necessary comments and recommendations from the NC Department of Transportation, the County Health Department, , the County Emergency Services Department, and other agencies that may be deemed necessary or desirable. The Planning Department Staff, the County Manager. or designee, and other agencies as deemed appropriate along with the developer, if he so desires, shall meet to review the plans and comments. The technical review shall be completed within thirty (30) calendar days of submission of a complete and accurate plan.
2. Zoning Administrator Action: Upon completion of the technical review of the plan, the Zoning Administrator shall approve or disapprove the plan. The Zoning Administrator shall have forty (40) calendar days to take action on the plan.
3. If the preliminary plan is approved, such approval shall be entered on the face of the plan in writing by an authorized representative of the County. One print of the plan shall be transmitted to the developer and the reproducible original shall be retained by the Planning Department.
4. When a preliminary plan is disapproved, the Planning Department Director shall specify the reasons for such action in writing within five (5) working days of the action. One copy of such reasons and the reproducible original of the plan shall be retained by the Planning Department and a print of the plan with reasons for disapproval shall be given to the developer. If the preliminary plan is disapproved, the developer may make the recommended changes and submit a revised preliminary plan.
5. The approvals and disapprovals set forth in this Section shall be communicated by the officer making the determination who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the County tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

5.19.5 CONSTRUCTION PERMITS

If the preliminary plan is approved, the developer may obtain the required development permits and proceed with construction. No permits shall be issued prior to address assignments by the County.

5.19.6 OCCUPANCY

No manufactured housing spaces shall be occupied until all improvements have been approved by the Planning Department for the phase of the park under review and the final plan for that phase has been signed by the Board of County Commissioners Chairperson.

5.19.7 SPECIFICATIONS

- A. Parks shall contain at least contiguous three (3) spaces.
1. The amount of land for each space utilizing individual septic tank systems shall be determined by the Lenoir County Health Department after an investigation of soil conditions, the proposed method of sewage disposal and proposed water system. However, in no case shall the size of the spaces be less than 20,000 sq.ft. (including rights-of-way) for spaces utilizing septic systems.
 2. Spaces located in the 100-year flood plain shall comply with the Lenoir County Flood Damage Prevention Ordinance.
 3. A minimum of two (2) off-street parking spaces shall be provided for each space and shall be the same aggregate base as the roadway.
 4. Each manufactured housing space shall be a minimum of forty (40) feet wide.
 5. All roads in any park shall be a minimum of eighteen (18) feet in width and shall be installed with an aggregate base in accordance with NCDOT standards. Road rights-of-way should generally be thirty (30) feet in width.
 6. Cul-de-sacs should not exceed one thousand (1,000) feet in length with a minimum diameter of eighty (80) feet and an improved surface radius of thirty-five (35) feet.
 7. All streets shall have street name signs provided by the County.
 8. All spaces shall be permanently identified with numbers in accordance with addressing guidelines for Lenoir County.
 9. The developer must provide plans for refuse collection service to the park. All dumpster and refuse collection areas shall be screened.
 10. Each space must be provided water, sewer, electrical and telephone connections. Developers are encouraged to place all wiring underground.
 11. Parks served by a central water system shall be required to install hydrants equal to the total linear feet of roadway divided by one thousand (1,000) or the total number of spaces divided by forty, whichever is greater. Parks adjacent to a permanent surface water source water body shall install a dry hydrant as close to the water source as possible.
 12. Each unit shall be provided with anchorage in accordance with the NC uniform Standard Code for Mobile Homes (NCGS 143, Article 9A).
 13. Central mailboxes shall not be located within the public street right-of-way.
 14. Requirements for improvements to existing facilities which will be used to serve expansions of existing manufactured housing parks shall be determined by the Board of County Commissioners based on factors including, but not limited to, the size of the expansion, the dependency of the expansion on the existing

- facilities and the condition of the existing facilities.
15. Screening and/or landscape buffering shall be provided by developer next to adjacent properties.
 16. Area Security Lighting shall be provided by developer at a rate of one area light per four spaces with a minimum of one area light per park.

5.20 MICROBREWERY/MICRODISTILLERY

5.20.1 DESIGN

- A. OUTDOOR STORAGE
 1. No outside storage of spent grain.
 2. Outdoor storage shall be enclosed by a six (6') foot opaque fence. This excludes storage of raw materials and spent grain.
- B. LIGHTING
 1. Lighting shall be such that it is not directed onto any adjacent properties or rights-of-way.
- C. LOADING/UNLOADING
 1. Off-street loading and unloading for all materials shall be provided.

5.20.2 MISCELLANEOUS PROVISIONS

- A. Must meet the requirements of NC G.S. 18B 1104-1105, respectively.

5.21 PUBLIC OR PRIVATE UTILITIES

5.21.1 PUBLIC UTILITY STATIONS

- A. Public utilities other than distribution lines, to include but not limited to, electric substations, telephone exchange buildings, and water tanks and towers, are not required to meet minimum lot standards of the underlying zoning district; however, all applications for site development for utility structures shall include an accurate site-specific plan using the following conditions as development guidelines
- B. The easement or lease shall include sufficient area for the foundation of the structure, any underground improvements such as electrical ground fields, vehicular maneuvering, and parking. The vehicular area requirements may overlap the underground improvements as needed.
- C. Standard residential, commercial, or industrial building setbacks of the zoning district are not required for utility structures; however, all utility structures and required areas for utility structures shall not be located closer than 20' from any dwelling or building. Where the height of the utility structure exceeds 35', the setback from the easement line shall be increased 1 foot for every 2 feet of height more than 35' of the structure in addition to other area requirements. To this Ordinance, the lease or easement line shall be the property line.
- D. Utility structures or required utility areas shall not infringe on area required as a septic system field by the Lenoir County Health Department, nor any open space or yard requirements for building lots as required by this Ordinance.

5.21.2 RESIDENTIAL TREATMENT FACILITY

- A. In addition to satisfying the prescribed requirements and criteria for a Special Use Permit, the following documentation shall accompany the application in order to be considered complete:
1. The proposed facility is located no less than one mile from any existing Residential Treatment Facility, Group Care Facility, or Family Care Home.
 2. A description of the type of persons to be cared for and the nature of the care to be provided.
 3. Plans for proposed structural alterations to existing structures or new construction, including a complete description of the nature and extent of these alterations or new construction.
 4. Licensure of the applicant. If unlicensed, the applicant shall have the ability to obtain and provide documentation showing that he/she is in the process of obtaining a license from the North Carolina Department of Health and Human Services.
 5. Empirical data demonstrating a need for the facility.
 6. The facility shall house no more than six clients.
 7. The status of residents for which the facility is to provide treatment (i.e. – “the facility is intended to provide treatment for juveniles adjudicated as delinquent”, etc.)
 8. Provision for one parking space for each six patient beds, one for each staff or visiting doctor, and one space for each four employees.
- B. The Special Use Permit shall be revocable with the loss of State licensure, or if the property is vacated or its use discontinued, regardless of the intent of the owner, for greater than 180 days. The licensee shall apply for a review before the Lenoir County Planning Board at least thirty (30) days prior to any proposed change in the management or operation of the facility. If the Board deems that the change will substantially alter the impact of the treatment facility on surrounding properties, or that any of the original conditions are not met by the proposed management or operation, then the Board shall make such findings in an amendment, repeal, or issuance of a new Special Use Permit, as applicable.
- C. The owner of any unlicensed Residential Treatment Facility in operation on August 16, 2004 (the date of enactment of this amendment) that is made nonconforming by this Ordinance may continue its use while following the procedures to attain compliance with this Ordinance for up to one hundred and eighty (180) days from its adoption. After that date, the property owner of any unlicensed unit or home determined to be in operation for which no application has been filed shall be notified by certified mail or personal service by the zoning administrator or his designee of the violation. The notice shall allow the owner no greater than thirty (30) days within, which to either file the appropriate application for permit or to discontinue the use. Enforcement remedies shall be applied as outlined in this Ordinance.

- D. Existing Residential Treatment Facility shall be exempt from the required separation distances for the initial permit only and all provisions herein shall be applicable to any subsequent review.

5.22 SOLAR ENERGY FACILITIES

5.22.1 LOCATION

The following provisions shall apply to the location of all Solar Energy Facilities and Improvement Areas:

- A. Improved areas shall not be located in a federally designated Special Flood Hazard Area.
- B. No solar energy facility shall be located within two (2) miles of the boundaries of a cargo airport complex site as defined in North Carolina General Statutes 62A-2.
- C. All Improved Areas shall be at least 100 feet from a public road and 25 feet from the fence line.
- D. Improved Areas shall be at least 100 feet from any contiguous property line not associated with a Solar Energy Facility.
- E. All access roads and storage areas shall be established on a 30-foot minimum easement to a public right-of-way.
- F. All improved areas must be set back at least 150 feet from any RE district or 150 feet from any residential use.
- G. All improved areas must conform to the minimum zoning setbacks for the zoning district in which it is located.

5.22.2 LANDSCAPING AND BUFFERING

All Solar Energy Facilities shall have, at minimum, a continuous landscape buffer containing evergreen vegetation screening where existing buffers do not obscure solar energy system perimeters from dwelling units on adjacent parcels. All vegetative screening planted within the buffer should be planted at least ten (10) feet on center and shall consist of plants that will be at least fifteen (15) feet in height at maturity.

An optional earthen berm may be used in conjunction with planted vegetation provided all of the following are met:

- A. The combined height of the berm and planted vegetation shall be at least 15 feet and provide approximately 75% opacity within one year of planting.
- B. The slope of the berm shall be stabilized with vegetation and no steeper than 3:1.
- C. The height of the berm shall be a minimum of 6 feet, with a level or rounded area on top of the berm.
- D. The berm shall be constructed of compacted earth.
- E. When berms are planned to be installed within required buffers, storm drainage plans submitted with an application shall be designed to anticipate a 100-year storm event.

- F. When visible from an adjoining residential use (including across a street) the berm shall be composed of view-obscuring vegetation in combination with a berm designed to obscure views to a height of 15 feet from the ground, except for mechanical equipment which shall be screened to the height of the equipment plus six inches.

Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within 3 to 5 years.

5.22.3 ENCLOSURE FENCING AND SECURITY

Solar energy facilities shall be fenced completely by a continuous barrier extending from the surface of the ground to a uniform height of not less than 6 feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength. The perimeter fence shall be designed to restrict unauthorized access.

5.22.4 INSTALLATION AND DESIGN

- A. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
 - 1. On site power lines between solar panels and inverters shall be placed underground.
 - 2. The design of Solar Energy Facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
 - 3. If the Solar Energy Facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
 - 4. The applicant must obtain from NC Department of Transportation a driveway permit.
 - 5. The design and construction of Solar Energy Facilities shall not produce light emissions, either direct or indirect (reflective), that would interfere with pilot vision and/or traffic control operations as stated in the most recent AICUZ report, as well as low level military training routes as then utilized by any branch of the US Department of Defense.
- B. The design and construction of Solar Energy Facilities shall not produce electrical emissions that would interfere with aircraft communications systems or navigation equipment as stated in the most recent AICUZ report, as well as low level military training routes as then utilized by any branch of the US Department of Defense.
- C. The design and construction of Solar Energy Facilities shall not produce light emission, either direct or indirect (reflective), that would create a visual safety hazard for passing motorists.
- D. The following documents shall be provided to Lenoir County:

1. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the county.
2. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the Solar Energy Facility.
3. Any other relevant studies, reports, certificates and approval as may be reasonably required by Lenoir County.
4. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
5. A copy of all permits and/or approvals issued by the North Carolina Utilities Commission.
6. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
7. It is the responsibility of the parcel owner to remove all obsolete or unused systems within 12 months of cessation of operations. Reusable components are to be recycled whenever possible.
8. Each owner, operator or maintainer of a Solar Energy Facility to which this Ordinance applies shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed 12 inches in height.

5.22.5 HEIGHT

- A. Twenty-five (25) feet maximum.

5.22.6 SITE PLAN REQUIRED

- A. Owners or operators of Solar Energy Facilities established after the effective date of this Article.
- B. Ordinance shall present 3 copies of a site plan, which conform to the standards of this Ordinance to the Board of County Commissioners. The site plan shall include setbacks, panel sizes, and location of property lines, buildings and road rights-of-way.
- C. The Planning Board shall review the site plan to insure conformity with the requirements of this Ordinance. No new Solar Energy Facility shall be operated until the site plan has been approved by the Board of County Commissioners as part of a Special Use Permit review process; provided, however, that if the Board of County Commissioners has not taken action within 90 days after the first commissioners' meeting after the submission of the site plan, said site plan will be deemed to be approved.

- D. Prior to final inspection, proof must be submitted that a permit has been issued in accordance with applicable provisions of the General Statutes by the State of North Carolina.
- E. Appeals of all matters under this Ordinance shall be to the Planning Board.

5.22.7 ABANDONMENT, DECOMMISSIONING AND NOTIFICATION

A. ABANDONMENT

- 1. A Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the Solar Energy Facility provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Chief Building Inspector or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the Solar Energy Facility.
- 2. Upon determination of abandonment, the Chief Building Inspector shall notify the party (or parties) responsible they must remove the Solar Energy Facility and restore the site to its condition prior to development of the Solar Energy Facility within 360 days of notice by the Chief Building Inspector or his designee.
- 3. If the responsible party (or parties) fails to comply, the Chief Building Inspector or his designee may remove the Solar Energy Facility, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy Facility and restore the site to a non-hazardous pre-development condition.

B. DECOMMISSIONING

- 1. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of the development permit:
 - a. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment etc.)
 - b. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.
 - c. Restoration of property to condition prior to development of the Solar Energy Facility.
 - d. The timeframe for completion of decommissioning activities.
 - e. Description or copy of any agreement (e.g. lease) with landowner regarding decommissioning.
 - f. The party currently responsible for decommissioning.
 - g. Plans for updating this decommissioning plan.
 - h. A form of surety equal to 125% of the entire cost of decommission under the plan, as estimated by a North Carolina licensed engineer under seal, and approved by the County Chief Building Inspector and County Attorney, either

through cash, a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the County or in escrow with a financial institution designated as an official depository of the County. This surety shall be retained by the County to cover the cost of the decommissioning requirements herein. Following initial submittal of the surety, the cost calculation shall be reviewed annually, and adjusted accordingly based upon an updated estimate of a North Carolina licensed engineer under seal, of the estimated decommissioning costs; provided however, any such periodic adjustment must be approved by the Planning Board. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, County shall be entitled to make immediate demand upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the Solar Energy Facility, even if still operational.

C. AVIATION NOTIFICATION

1. For consideration of potential impacts to the Global TransPark (GTP) operations, notification of intent to construct a Solar Energy Facility within five miles of the cargo airport complex site as defined in North Carolina General Statutes 62A-2 shall be sent to the designated GTP official no less than thirty (30) days before the regularly scheduled public hearing date before the Board of County Commissioners. Notification shall include location of Solar Energy Facility (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.
2. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) miles from an airport listed in the National Plan of Integrated Airport
3. Systems, notification of intent to construct a Solar Energy Facility shall be sent to the airport manager or designated official and the Federal Aviation Administration's (FAA) Airport District office (ADO) with oversight of North Carolina. Notification shall include location of the Solar Energy Facility (i.e., map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given no less than 30 days for review.
4. After receiving notification of intent to construct a Solar Energy Facility as described in this Ordinance; if requested, the proponent of the Solar Energy Facility shall use the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), per its user's manual to evaluate the solar glare aviation hazard.
5. Airport operations at an airport in the National Plan of Integrated Airport Systems (NPIAS) within five (5) miles of the center of a proposed Solar Energy

Facility: provide required SGHAT analysis information to the airport manager or designated official and the Federal Aviation Administration's (FAA) Airport District office (ADO) with oversight of North Carolina.

6. Airport operations at airport not in the NPIAS, except military airports, within five (5) miles of the center of proposed Solar Energy Facility: provide required SGHAT analysis information to the management of the airport for non-military airports.
7. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days prior to site plan approval. Proof of delivery of notification and date of delivery shall be submitted with permit application.
8. A completed FAA Form 7460-1, Notice of Proposed Construction or Alteration must be submitted at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed.

5.23 STORAGE, OUTDOOR

5.23.1 LOCATION

A. SETBACK

1. Such use shall be setback a minimum of 30' from the public right-of-way and 20' off each property line.

B. SIZE

1. All outdoor storage facilities greater than 10 acres in size shall require a special use permit regardless of district in which they are proposed to be located.

5.23.2 DESIGN

A. LANDSCAPING AND BUFFERING

1. A landscaped buffer of one shrub, five feet on center, or one tree, fifteen feet on center shall be installed to screen the road-facing portion of the property.
2. When adjacent to a residential zoning district or residential use, a 250' buffer is required (measured from the lot of the storage location to the residential structure).

B. FENCING

1. The entirety of the facility shall be screened by an opaque fence with a minimum height of six (6) feet.

5.23.3 OTHER REQUIREMENTS

A. STORAGE

1. The storage of junked, wrecked, or inoperable vehicles is not allowed.
2. The storage of any hazardous materials is not allowed.
3. The storage of any scrap, waste materials, trash, or other junk is not allowed.

5.24 WIND ENERGY FACILITY

5.24.1 LOCATION

A. SETBACKS

1. Wind energy facility structures shall be setback from all property lines and public right(s)-of-way a distance equal to one (1) linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district in which it is located, whichever is greater.

B. GLOBAL TRANSPARK

1. All wind energy facilities within 5 miles of the Global TransPark Overlay shall be forwarded to the Global TransPark Authority for review.

5.24.2 DESIGN

A. HEIGHT

1. The maximum height of wind turbines is for a Small Facility is 120 feet and 600 feet for a Large Facility unless evidence is submitted otherwise showing approval for additional height from the Lenoir County Fire Code Official.

B. VISUAL APPEARANCE

1. Must be a non-obtrusive color such as white, off-white, or gray;
2. May not be artificially lighted, except to the extent required by the FAA; and
3. May not display advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer, facility owner(s), and operator.

- #### C. Installation and design of a wind energy facility shall conform to the applicable industry standards, including those of the American National Standards Institute.

5.24.3 MINIMUM LOT SIZE

- #### A. Minimum lot size is 5 acres for a Small Facility and 25 Acres for a Large Facility.

5.24.4 SHADOW AND FLICKER

- #### A. Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at any Occupied Building on the property of a non-participating landowner.
- #### B. Shadow flicker at any Occupied building on a non-participating landowner's property caused by a large wind energy facility must not exceed thirty (30) hours per year.
- #### C. Sound and/or shadow flicker provisions may be waived by a property owner so long as such waiver is in writing, signed by the property owner and recorded in the Lenoir County Register of Deeds office.

5.24.5 DECOMMISSIONING

- #### A. The wind energy facility owner shall have twelve (12) months to complete decommissioning of the wind energy facility if no electricity is generated for a

continuous period of twelve (12) months. This period may be extended by the Lenoir County Board of Commissioners, if evidence is provided that the delay is due to circumstances beyond the facility owner/operator's reasonable control.

- B. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade.
- C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas are not to be restored.
- D. Prior to the issuance of a building permit, the owner of a Large Wind Energy Farm shall provide a bond or irrevocable letter of credit in favor of the County in an amount equal to the estimated removal cost of the Wind Energy Farm, less the salvage value of the equipment prior to construction. If the Wind Farm Owner elects to use a letter of credit, it shall be issued by a federally chartered bank with a branch office in northeastern North Carolina. The bond or letter of credit shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Use Permit.

5.25 WIRELESS TELECOMMUNICATION FACILITIES

5.25.1 LOCATION

A. SETBACKS

- 1. Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.

5.25.2 EXEMPT FROM ALL APPROVAL PROCESSES. THE FOLLOWING ARE EXEMPT FROM ALL LENOIR COUNTY ZONING APPROVAL PROCESSES AND REQUIREMENTS:

- A. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial change as defined in this Ordinance.
- B. Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures, as defined in this Ordinance. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.
- C. Wireless Facilities placed on utility poles.

5.25.3 ADMINISTRATIVE REVIEW AND APPROVAL PROCESS

- A. CONTENT OF APPLICATION PACKAGE - For New Sites. All Administrative Review application packages must contain the following:
 - 1. Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms.
 - 2. Documentation from a licensed professional engineer if calculation of the fall

zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this Ordinance.

- B. CONTENT FOR APPLICATION PACKAGE-For Other Sites/Facilities. All Administrative Review application packages must contain the following:
 - 1. For collocations and substantial changes, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.
 - 2. For substantial changes, drawings depicting the improvements along with their dimensions.

5.25.4 INSTALLATION AND DESIGN

A. DESIGN

- 1. Wireless Support Structures shall be subject to the following:
- 2. Shall be engineered and constructed to accommodate a minimum number of Collocations based upon their height:
 - a. Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers.
 - b. Support structures greater than one hundred (100) feet but less than one hundred fifty (150) feet shall support at least three (3) telecommunications providers.
- 3. The Equipment Compound area surrounding the Wireless Support Structure must be of sufficient size to accommodate Accessory Equipment for the appropriate number of telecommunications providers.
- 4. Upon request of the Applicant, the Administrator may waive the requirement that new Wireless Support Structures accommodate the Collocation of other service providers if it finds that Collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer Antennas will promote community compatibility.
- 5. A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:
 - a. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
 - b. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
- 6. The height of the Monopole or Replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
- 7. Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
- 8. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection 3 above.
- 9. Poles that use the structure of a utility tower for support are permitted. Such

poles may extend up to twenty (20) feet above the height of the utility tower.

B. AESTHETICS

1. Lighting and Marking. Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
2. Signage. Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).

C. ACCESSORY EQUIPMENT

1. Accessory Equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.

D. FENCING

1. Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Administrator.
2. The Administrator may waive the above fencing requirement if it is deemed that a fence is not appropriate or needed at the proposed location.

5.25.5 HEIGHT

- A. In permitted districts, Wireless Support Structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Administrator shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Administrator.

5.25.6 COMPLIANCE WITH STATE AND/OR FEDERAL LAW

- A. The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of the State and Lenoir County to facilitate the placement of wireless communications support structures in all areas of the county.
- B. The placement, construction, or modification of wireless communications facilities

shall be in conformity with the Federal Communications Act, 47 USC § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

- C. This Section shall not be construed to authorize Lenoir County to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

5.25.7 MISCELLANEOUS PROVISIONS

- A. Abandonment and Removal. If a Wireless Support Structure is Abandoned, and it remains Abandoned for a period in excess of twelve (12) consecutive months, Lenoir County may require that such Wireless Support Structure be removed only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. Lenoir County shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.
- B. Multiple Uses on a Single Parcel or Lot. Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

5.26 WHOLESALE OPERATIONS

5.26.1 INDOOR OPERATIONS

- A. LOCATION
 - 1. Setback is 50'.
- B. LANDSCAPING AND BUFFERING
 - 1. When adjacent to a residential zoning district or residential use, a 25' buffer is required measured from the property line.
 - 2. Landscaping shall include evergreens with minimum 50% coverage and shall be at least 6' tall within three years of planting.

5.26.2 OUTDOOR OPERATIONS

- A. LOCATION
 - 1. Setback is 50'.
- B. LANDSCAPING AND BUFFERING
 - 1. When adjacent to a residential zoning district or residential use, a 100' buffer is required measured from the property line.
 - 2. Landscaping shall include evergreens with minimum 50% coverage and shall be at least 6' tall within three years of planting.

C. FENCING

1. Outdoor operations shall be screened by a 6' high, opaque fence.

ARTICLE 6. ADMINISTRATION AND ENFORCEMENT

6.1 PURPOSE AND INTENT

In order to establish an orderly process to develop land with Lenoir County’s planning jurisdiction consistent with standard development practices and terminology it is the purpose of this chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, County staff and related agencies, and the Board of Commissioners.

6.1.1 GENERAL PROVISIONS AND APPLICABILITY

A. NO CONSTRUCTION TO COMMENCE WITHOUT A PERMIT

1. No land shall be used or occupied, and no structures shall be erected, moved, extended, or enlarged nor shall any timbering, clearing and grubbing, or filling of any lot for the construction of any building be initiated until the Zoning Enforcement Officer (Administrator) has issued the appropriate permit which will certify that the proposed work is in conformity with the provisions of this Ordinance.

B. FEES AND INSPECTIONS

1. Lenoir County is authorized to establish fees to be charged by the County for the administration of the regulations in this Ordinance.

6.2 REVIEW AUTHORITY

The following table provides a summary of the review and decision-making authority granted under this Ordinance.

REVIEW AUTHORITY TABLE					
DEVELOPMENT /PERMIT PROCESS	PROCESS TYPE, LOCATION	REVIEW/RECOMMENDATION	FINAL ACTION	APPEAL PROCESS	PUBLIC NOTICE
Zoning Compliance Permit	Administrative, 6.4.2	Administrator, Technical Review Committee (if needed), Global TransPark Authority (if needed)	Administrator	Planning Board	N/A
Appeal of Administrative Decisions	Quasi-judicial, 6.4.4	N/A	Planning Board	Superior Court	A
Text Amendment	Legislative, 6.6.1	Administrator, Technical Review Committee (if needed), Global TransPark Authority (if needed)/Planning Board	BOC	Superior Court	B
Rezoning (Map Amendment)	Legislative, 6.6.2	Administrator, Technical Review Committee (if needed), Global TransPark Authority (if needed)/Planning Board	BOC	Superior Court	A, B, & C
Special Use Permit	Quasi-judicial, 6.4.4	Administrator, Technical Review Committee (if needed), Global TransPark Authority (if needed)	BOC	Superior Court	A, B, & C
Preliminary Plat (Minor or Major)	Administrative, 6.4.4	Administrator, Technical Review Committee (if needed), Global	Administrator	Per Appeal of Administrative	N/A

REVIEW AUTHORITY TABLE					
Subdivision)		TransPark Authority (if needed)		Decision	
Final Plat	Administrative, 6.4.4	Administrator, Technical Review Committee (if needed), Global TransPark Authority (if needed)	Administrator	Per Appeal of Administrative Decision	
For public noticing, see Section 6.6.2, Public Notice where A is mailed notice, B is published notice, and C is posted notice. BOC= Board of Commissioners					

6.3 PLANNING BOARD

6.3.1 PURPOSE AND INTENT

The Planning Board, as appointed by the Board of County Commissioners, is established to hear and decide upon appeals concerning the interpretation and administration of this Ordinance. The Board may consider variances from the terms of this Ordinance as allowed herein. The Board is also responsible for providing recommendations and guidance to the Board of County Commissioners on petitions for rezoning or ordinance text amendments. The Board is also tasked with regularly reviewing and suggesting amendments to the County’s land use plan and other planning documents.

6.3.2 APPOINTMENT AND TERMS OF OFFICE

- A. All appointments to the Planning Board shall be made by the Board of County Commissioners. The Board of County Commissioners may establish reasonable procedures to solicit, review, and make appointments to the Planning Board. Planning Board members shall be appointed to a three (3) year term and may be appointed to serve two-three year terms for a maximum of six (6) years. However, any membership appointment made by the Board of Commissioners to fulfill an unexpired term of another planning board member shall not impede the member fulfilling the unexpired term from being appointed to a one or two – three year term. Official membership shall be appointed geographically by voting districts as follows: five (5) member appointed by voting districts who reside in Lenoir County; two (2) at-large members who reside in Lenoir County. All members appointed to the Planning Board under this Ordinance shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26.
 - 1. The Chair shall preside at all meetings, appoint all standing and temporary committees, and shall exercise full voting rights at his or her discretion on any matters under consideration.
 - 2. The Vice-Chair shall preside at meetings in the absence of the Chair.
- B. APPOINTMENT OF ALTERNATE MEMBERS
 - 1. The Board of Commissioners shall appoint two (2) alternate members of the Planning Board in the same manner as regular members and at regular times for appointment. Such alternates shall serve for terms of three (3) years, and shall,

while attending any meeting of the Board and serving in the absence of any regular member, have and exercise all the powers and duties of that member.

6.3.3 PROCEEDINGS OF THE PLANNING BOARD

- A. Rules of procedure that are consistent with the provisions of this Ordinance may be adopted by the Board of County Commissioners for the Planning Board. In the absence of action by the Board of County Commissioners, the Planning Board is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Clerk to the Board of Commissioners and shall be posted on the County's website. Meetings of the Planning Board shall be held pursuant to a schedule adopted pursuant to law. Special or emergency meetings of the Planning Board may be held in accordance with the provisions of Chapter 143 of the North Carolina General Statutes. All meetings shall be open to the public.
- B. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and findings and other official actions, all of which shall be public record and be filed in the office of the Zoning Enforcement Office.
- C. The concurring vote of four-fifths of the Planning 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 Section [6.3.6](#) 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. An appeal of a decision of the Planning Board shall be made to superior court in accordance with Article 14 of 160D.

6.3.4 VARIANCES

- A. Applicability
 - 1. Pursuant to NC G.S. § 160D- 705(d), where owing to special conditions, a strict enforcement of the provisions of this Ordinance would result in unnecessary hardship to the property owner, the Planning Board is authorized to grant variances from the standards of this Ordinance in accordance with the public interest and in the spirit of this Ordinance.
- B. Review Criteria
 - 1. When unnecessary hardships would result from carrying out the strict letter of a requirement of this Ordinance, the Planning Board may vary the requirement of this Ordinance upon a showing of all of the following:
 - 2. Unnecessary hardship would result from the strict application of the requirement. It shall not be necessary to demonstrate that, in the absence of the

- variance, no reasonable use can be made of the property.
3. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance shall be granted by the Administrator, without necessity for an application, when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability. The Administrator shall advise the Planning Board that such action has occurred.
 4. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 5. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
 6. No change in permitted use may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Such conditions may include but shall not be limited to: surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments, as will assure conformity to and achievement of the plan.
- C. Global TransPark shall have the statutory authority pursuant to N.C.GS § 63A in general and to N.C.GS §63A-18 in particular and within their jurisdiction they shall be notified pursuant to Section [6.7](#).
 - D. In considering a variance, the Planning Board shall follow quasi-judicial processes as set forth below.

6.3.5 QUASI-JUDICIAL PROCEEDINGS

A. PROCESS REQUIRED

1. The Planning Board shall follow quasi-judicial procedures as directed in this Ordinance, and in any event in determining appeals of administrative decisions and variances.

B. NOTICE OF HEARING

1. Notice of evidentiary hearings conducted pursuant to Chapter 160D shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the County may rely on the County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the County shall also

prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Planning Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular meeting of the Planning Board without further advertisement.

C. ADMINISTRATIVE MATERIALS

1. The Planning Director shall transmit to the Planning Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Planning Board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

D. PRESENTATION OF EVIDENCE

1. The applicant, the County, and any person who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Planning Board.
2. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Planning Board. The Planning Board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

E. APPEARANCE OF OFFICIAL NEW ISSUES

1. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the County, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

F. OATHS

1. The chair of the Planning Board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the Planning Board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

G. SUBPOENAS

1. The Planning Board making a quasi-judicial decision under Chapter 160D through the chair or, in the chair's absence, anyone acting as chair may subpoena

witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the County, and any person with standing may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full Planning Board. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

H. VOTING

1. The concurring vote of four-fifths of the Planning 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.

I. DECISIONS

1. The Planning Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the County that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

6.3.6 CONFLICT OF INTEREST

A. BOARD OF COUNTY COMMISSIONERS

1. A County Commissioner shall not vote on any legislative decision regarding a

development regulation under this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the Commissioner.

B. PLANNING BOARD

1. Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation under this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

C. ADMINISTRATIVE STAFF

1. No staff member shall make a final decision on an administrative decision regarding a development regulation under this Ordinance 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.
2. No staff member shall be financially interested or employed by a business that is financially interested in a mobile home park subject to regulation under Chapter 160D 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 the County to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the County, as determined by the County.

D. QUASI-JUDICIAL DECISIONS

1. When the Planning Board is exercising quasi-judicial functions pursuant to this Ordinance, Planning Board members 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.

E. RESOLUTION OF OBJECTION

1. 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, herself or themselves, the remaining members of the board shall by majority vote rule on the objection.

F. FAMILIAL RELATIONSHIP

1. 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.

6.4 ZONING ENFORCEMENT OFFICER (ADMINISTRATOR)

An administrative official hereinafter referred to as the Zoning Enforcement Officer (Administrator), appointed by the Board of County Commissioners of Lenoir County, shall administer, and enforce the provisions of this Ordinance, and he may be provided the assistance of such other persons as the Board of Commissioners deems necessary. The Administrator is currently defined as the Planning Director for the County of Lenoir County or may be reassigned by the Board of Commissioners as needed. The Zoning Enforcement Officer (Administrator) may delegate in writing the authority to perform inspections, review applications, and issue Certificates of Zoning Compliance to such assistants. In the performance of such functions, said assistants shall be responsible to the Zoning Enforcement Officer, and he shall be responsible for their proper execution of such delegated functions.

6.4.1 POWERS AND DUTIES OF THE ZONING ENFORCEMENT OFFICER (ADMINISTRATOR)

- A. All questions arising in connection with the enforcement of the provisions of this Ordinance shall be presented to the Zoning Enforcement Officer (Administrator). The Zoning Enforcement Officer (Administrator) has power to grant Certificates of Zoning Compliance for uses and structures found to be in compliance with the provisions established herein.
- B. The Zoning Enforcement Officer shall not grant Special Use Permits or Variances and shall not have the power to interpret the Zoning Ordinance provided herein. Questions of interpretation shall be determined by the Planning Board in considering appeals from decisions, orders, or other action of the Zoning Enforcement Officer (Administrator).
- C. When the Zoning Enforcement Officer (Administrator) finds that any of the provisions of this Ordinance are being violated, he shall take corrective action as authorized in Section [1.10](#).
- D. The Zoning Enforcement Officer (Administrator) shall maintain accurate records of all Certificates of Zoning Compliance issued, as well as applications and their associated documentation. Copies of said certificates shall be furnished to any person for a fee as estimated by the Lenoir County Fee Schedule. All such certificates constitute public records and may be inspected at the office of the Zoning Enforcement Officer during normal business hours.
- E. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof and giving adequate description of the violation shall be filed with the Zoning Enforcement Officer. He shall record properly such complaint, and take action thereon as provided in this Ordinance.

6.4.2 CERTIFICATE OF ZONING COMPLIANCE REQUIREMENTS

- A. No person shall commence or proceed with development, as defined in Article 1

above, without first securing a Certificate of Zoning Compliance issued by the Zoning Enforcement Officer or his designee stating that the proposed development conforms with the requirements of this Ordinance. No building permit will be issued until the applicant has secured a Certificate of Zoning Compliance.

- B. Any approval or disapproval of an application for Zoning Compliance made pursuant to this Section shall be communicated by the Administrator who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.
- C. Temporary certificate of Zoning Compliance may be issued by the Zoning Enforcement Officer, or his designee, for a period not to exceed six (6) months duration, during alteration or construction for partial occupancy of a building pending completion. Such temporary certificate shall bear the dates of issue and expiration of the certificate, which shall be clearly marked "TEMPORARY", and shall stipulate and require such conditions and safeguards as will protect the safety of the occupants and the public. Similar permits shall be required of temporary structures for bazaars, carnivals, circuses, revivals, construction site offices, subdivision sales offices and similar activities utilizing temporary or portable structures.
- D. Certificates issued on the basis of plans, applications and other documents and approved by the Zoning Enforcement Officer constitute authorizations for the use, arrangement or construction set forth in these documents only. Any use, arrangement or construction which is found upon inspection to be at variance with that authorized shall constitute a violation of this Ordinance and shall be punishable upon conviction in accordance with [Article I](#).

6.4.3 APPLICATION AND ISSUANCE OF CERTIFICATES

Certificates of Zoning Compliance shall be issued by the Zoning Enforcement Officer or designee on the basis of conformance with this Ordinance:

- A. Reserved
- B. The location of said lot respective to adjacent rights-of-way;
- C. Reserved
- D. The nature of the proposed use of the building or land including the extent and location of the use on the lot;
- E. Reserved
- F. Approval of water supply and sewage disposal by authorized official (See Appendix A); and
- G. Any other information which the Zoning Enforcement Officer needs for consideration in enforcing the provisions of this Ordinance.

If the proposed building or use conforms to the provisions of this Ordinance, a

Certificate of Zoning Compliance shall be issued to the applicant by the Zoning Enforcement Officer or his/her designee indicating the approval of the Zoning Enforcement Officer. A copy of the Certificate of Zoning Compliance shall be filed in the office of the Zoning Enforcement Officer. A Certificate of Zoning Compliance shall expire one year after the date of issuance if the work authorized by the Certificate has not been substantially commenced. If after commencement the work or activity allowed under a Certificate is discontinued for a period of 12 months after commencement, the Certificate shall immediately expire.

6.4.4 PLAT PREPARATION AND APPROVAL PROCEDURES

A. IN GENERAL

1. The subdivider is encouraged to discuss the project and applicable regulations with the Planning Director to understand the process of preparing a subdivision plat.
2. There are two types of subdivisions; major subdivisions and minor subdivisions. Major subdivisions consist of more than 3 lots or subdivisions prospectively requiring any new streets. Minor subdivisions consist of 3 or less lots that do not require any new streets.
3. The subdivider may qualify for an exemption to filing a subdivision plat if they meet the conditions in [2.11](#) (definition of subdivisions).
4. All subdivision plats must be drawn by a Professional Land Surveyor or Professional Engineer.

B. MAJOR SUBDIVISION

1. Major Subdivisions go through a three-step process. First, the subdivider must submit a preliminary plat to the Planning Director to undergo review by the Technical Review Committee. Approval of the preliminary plat, by the Planning Director or designee, shall allow the subdivider to apply for building permits. Second, the Subdivider must submit a final Plat to the Planning Director. Third, if the final plat receives approval, the subdivider must register the subdivision with the Register of Deeds within 90 days.
2. Preliminary Plat
 - a. The submitted preliminary plat shall be clearly labeled: "Preliminary Plat – Not for Recordation, Conveyances, or Sale." The subdivider shall submit eight (8) hard copies and one (1) digital copy of the preliminary plat, a completed application, and the review fee to the Lenoir County Planning Department.
 - b. See Required Plat Contents Table on the Lenoir County Planning Inspections webpage for the contents of the preliminary plat.
3. Preliminary Plat Approval Process
 - a. The subdivider shall submit a preliminary plat, complete application and review fee to the Planning Director to undergo review by the Technical Review Committee.
 - b. The Technical Review Committee shall have 30 calendar days from the submission of the plat to review the plans and recommend its approval or

- disapproval.
- c. The Planning Director will relay the feedback from the Technical Review Committee and the committee's:
 - i. Approval: The subdivider may now apply for building permits. The plat's approval will be written on a copy of the preliminary plat that will be transmitted to the subdivider.
 - ii. Denial: The Planning Department shall specify the reasons for denial on a copy of the plat that will be given to the subdivision applicant within 5 working days of the disapproval. If denial is recommended, the subdivider may submit a revised plat to undergo review by the Technical Review Committee.
 - d. Denial recommendations may be appealed to the Planning Board within 30 days of being notified of the disapproval. The Planning Board may affirm, modify or remand the decision. Appeals of the Planning Board's decision may be made to the Superior Court.
4. Final Plat
- a. The Subdivider shall submit a final plat for all or part of the approved preliminary plat within 24 months of the preliminary plat approval date. If there is a lapse of more than 24 months in the submittal of the final plat, or successive sections thereof, the plat must be resubmitted as a preliminary plat. A time extension may be applied for prior to the expiration of 24 months as allowed for by Section [7.3](#).
 - b. The final plat shall conform substantially to the approved preliminary plat, to Section 47-30 of the North Carolina General Statutes, and to Lenoir County's policies.
 - c. The subdivider shall submit a completed application, review fee, one original print (drawn in ink on reproducible film at 18 x 24 inches), and three additional copies of the final plat to the Planning Department.
 - d. See Required Plat Contents Table on the Lenoir County Planning Inspections webpage for the contents of the preliminary plat.
5. Final Plat Approval Process
- a. The final plat shall be submitted to the Planning Department.
 - b. The Planning Department shall review the final plat for compliance with the requirements of this ordinance, and any other specifications that were agreed upon in the preliminary plat.
 - c. To receive approval, the subdivider shall have installed the improvements specified in this Ordinance, or guaranteed their installation through a financial guarantee (see Section [8.10.3](#) for details). The Planning Department shall give:
 - d. Approval: The final plat shall be returned to the subdivider with approval indicated in writing on the original tracing and with all the required signatures (excepting the certificate of Review Officer and the Certificate of Registration by the Register of Deeds). The subdivider shall file the approved final plat with the Register of Deeds of Lenoir County within 90 days of its

approval by the County Planning Department or such approval shall be void unless an extension of time is granted by the County Planning Department Staff. The subdivider shall provide a copy of the recorded plat to the Planning Department within 2 working days of recordation.

- e. Denial: The reason for denial shall be provided to the applicant in writing within 5 working days of the final submittal. Denial may be appealed to the Planning Board. Decisions from the Planning Board may be appealed to the Superior Court.

C. MINOR SUBDIVISION

1. A minor subdivision is a subdivision involving not more than three (3) lots, all of which front on an existing approved street and not involving any new streets or prospectively requiring any new street for access to interior property. To qualify as a minor subdivision, no part of the tract or parcel to be divided may have been subdivided as part of a minor subdivision in the 10 years prior to division.
2. Minor Subdivisions will be approved or disapproved by the Lenoir County Planning Department within 3 working days of its receipt of the plat, a completed application and the review fee. If the plat fails to conform to the definition of a minor subdivision, the Planning Department shall so notify the subdivider.
3. The minor subdivision plat shall comply specifically with the provisions of Section 47-30 of the North Carolina General Statutes and with the policies of Lenoir County in regard to mapping.
4. The subdivider shall submit a completed application, the review fee, one (1) original print (draw in ink on reproducible film at 18 x 24 inches) and three (3) additional copies of the minor subdivision plat to the Planning Department.
5. See the regularly updated table on the Lenoir County Planning & Inspections webpage for the require contents of the Minor Subdivision Plat.
6. Plat Approval Process
 - a. The final plat shall be submitted to the Planning Department.
 - b. The Planning Department shall review the final plat for compliance with the requirements of this ordinance, and any other specifications which were agreed upon at the time of the review of the preliminary plat.
 - c. The Planning Department shall give:
 - i. Approval: The final plat shall be returned to the subdivider with approval indicated in writing on the original tracing and with all the required signatures (excepting the certificate of Review Officer and the Certificate of Registration by the Register of Deeds). The subdivider shall file the approved final plat with the Register of Deeds of Lenoir County within 90 days of its approval by the County Planning Department or such approval shall be void unless an extension of time is granted by the County Planning Department Staff. The subdivider shall provide a copy of the recorded plat to the Planning Department within 2 working days of recordation.
 - ii. Disapproval: The reason for disapproval shall be provided to the applicant

in writing within 5 working days of the final submittal. Disapproval may be appealed to the Planning Board within 20 days of receiving notice of the disapproval. Decisions from the Planning Board may be appealed to the Superior Court.

6.4.5 APPEAL OF ADMINISTRATIVE DECISIONS

A. ADMINISTRATIVE APPEALS

1. Appeals of decisions made by staff under this Ordinance shall be made to the Planning Board. Appeals shall be heard by the Planning Board using the quasi-judicial processes set forth in Section [6.3.5](#).

B. STANDING

1. Any person who has standing or the County may appeal an administrative decision to the Planning Board. An appeal is taken by filing a notice of appeal with the Clerk to the Board. The notice of appeal shall state the grounds for the appeal.

C. TIME TO APPEAL

1. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to Section (b) above by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

D. RECORD OF DECISION

1. The official who made the decision shall transmit to the Planning Board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

E. STAYS

1. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.
2. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent

with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or County may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

6.5 BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners shall be responsible for deliberation and decisions of special use permits and amendments to this ordinance (pursuant to Article 6 of this Ordinance), including rezoning requests and amendments to the “Official Zoning Map”.

6.5.1 SPECIAL USE PERMITS

Special Use Permits shall be issued by the Board of County Commissioners for the establishment of uses listed as special uses.

A Special Use Permit Applicant shall submit an application to the Zoning Enforcement Officer at least thirty (30) days prior to the regular meeting of the Planning Board. Such application shall include all of the requirements pertaining to this Ordinance plus the following applicable information:

- A. A site plan sufficient to show locations of all proposed improvements at the proposed location. The Zoning Enforcement Officer may require a site plan be prepared by a registered design professional.
- B. Any other information deemed pertinent for the application by the Zoning Enforcement Officer or the Planning Board or Board of County Commissioners.
- C. Upon receiving such application, the Zoning Enforcement Officer shall give notice of a quasi-judicial hearing on the application in the same manner as is required for the hearing on an amendment to this Ordinance. This includes notification of Global TransPark, as applicable, and as further outlined in Section [6.7](#).
- D. The Board of County Commissioners shall consider the application and after a public hearing may grant or deny the Special Use Permit requested. In considering any application for a Special Use Permit hereunder, the Board of County Commissioners shall utilize quasi-judicial processes as set forth in Section [6.3.5](#) . The Special Use Permit, if granted, shall include such approved plans as may be required. In granting a Special Use Permit, the Board of County Commissioners shall make such findings as required in this Article.
- E. A Special Use Permit shall expire one year after the date of issuance if the work authorized by the approval has not been substantially commenced. If after commencement the work or activity allowed under a Special Use Permit is discontinued for a period of 12 months, the Special Use Permit shall immediately expire. The time periods set out in this Subsection shall be paused during any period of appeal, as may be applicable. No work or activity authorized by a Special Use Permit that has expired shall thereafter be performed until a new development approval has been secured.
- F. The Board of County Commissioners shall have the power to hear and decide upon

applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a district or only if such uses are designated or laid out on the site in a particular manner.

- G. In granting a Special Use Permit, the permitting board shall make written findings that the specific provisions of this Ordinance are fulfilled with due regard to the nature and state of all adjacent structures and use and the district within which same are located. The permitting board shall also make written findings that the following general requirements are met:
 - 1. The use requested is among those listed as an eligible Special Use in the district in which the subject property is located.
 - 2. The requested Special Use Permit is either essential or desirable for the public convenience or welfare.
 - 3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, nor will be detrimental to the health, morals or welfare of the community.
 - 4. The requested permit will be in conformity with all officially adopted land development plans.
 - 5. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.
- H. When denying a Special Use Permit, the permitting board shall make written findings that the specific provisions of this Ordinance are not fulfilled with due regard to the nature and state of all adjacent structures and use and the district within which same are located. The permitting board shall also make written findings that at least one of the following general requirements are not met:
 - 1. The use requested is among those listed as an eligible Special Use in the district in which the subject property is located.
 - 2. The requested Special Use Permit is either essential or desirable for the public convenience or welfare.
 - 3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, nor will be detrimental to the health, morals or welfare of the community.
 - 4. The requested permit will be in conformity with all officially adopted land development plans.
 - 5. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.
- I. A Special Use Permit issued pursuant to this Ordinance expires one year after the date of issuance if the work authorized by such permit has not been substantially commenced.
- J. In granting the permit, the permitting board may designate such conditions in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also shall be entered on the certificate of the Special Use Permit or the plans submitted

therewith.

- K. In granting the permit, the permitting board may designate such conditions in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also shall be entered on the certificate of the Special Use Permit or the plans submitted therewith.
- L. If the permitting board denies the permit, the board shall enter the reason for its action in the minutes of the meeting at which the action is taken.
- M. In the event of failure to comply with the plans approved by the permitting board or with any other conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect.
- N. In addition to any other requirements of this Article regarding the approval or disapproval of an application for a Special Use Permit, the approvals and disapprovals set forth in this Section shall be communicated by the officer or board making the determination who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. If the notice is sent by first-class mail, the notice shall be delivered to the last address listed for the owner of the affected property on the County tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.
- O. Global TransPark shall have the statutory authority pursuant to N.C.GS § 63A in general and to N.C.GS §63A-18 in particular and within their jurisdiction they shall be notified pursuant to Section [6.7](#), and their approval is required for any special use permit. They shall have the authority to require conditions of approval and any other powers pursuant to state statutes.

6.6 AMENDMENTS

6.6.1 TEXT AMENDMENTS

- A. HEARING WITH PUBLISHED NOTICE
 1. Before adopting, amending, or repealing any provision of this Ordinance, the Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
 2. No amendment to this Ordinance or the “Official Zoning Map of Lenoir County” that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the

down-zoning amendment, unless the down-zoning amendment is initiated by the County. For purposes of this prohibition, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways: (a) by decreasing the development density of the land to be less dense than was allowed under its previous usage, or (b) by reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

6.6.2 NOTICE OF HEARING ON PROPOSED REZONING (MAP AMENDMENTS)

A. MAILED NOTICE

1. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the County tax abstracts. For the purpose of this Section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.

B. OPTIONAL NOTICE FOR LARGE-SCALE ZONING MAP AMENDMENTS

1. The first-class mail notice required under Subsection (A) of this Section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the County elects to use the expanded published notice provided for in this Subsection. In this instance, the County may elect to make the mailed notice provided for in Subsection (A) of this Section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each 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 that publishes the notice. Property owners who reside 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 according to the provisions of Subsection (A) of this Section.

C. POSTED 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 County shall post sufficient notices to provide reasonable notice to interested persons.

D. NOTIFICATION OF GLOBAL TRANSPARK

1. Whenever a land use or development proposal or application is initiated with the jurisdiction of global TransPark (GTP), the county shall immediately notify GTP in writing. Such notification shall include an invitation for a GTP representative to

attend any presubmittal or preapplication meeting(s). See also N.C.GS § 63a and N.C.GS §63a-18.

E. CITIZEN COMMENTS

1. If any resident or property owner in the county submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the clerk to the board of commissioners at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the board of commissioners. If the proposed change is the subject of a quasi-judicial proceeding under N.C. § GS 160d-705 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

6.6.3 PLANNING BOARD REVIEW AND COMMENT

A. ZONING AMENDMENTS

1. All proposed amendments to this Ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may act on the amendment without the Planning Board report. The Board of Commissioners are not bound by the recommendations, if any, of the Planning Board.

B. PLAN CONSISTENCY

1. When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action 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 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 map amendment qualifies as a "large-scale rezoning" under N.C. GS § 160d-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

C. SEPARATE BOARD REQUIRED

1. Notwithstanding the authority to assign duties of The Planning Board to the Board of County Commissioners as provided by Chapter 160D, the review and comment required by this section shall not be assigned to the Board Of County Commissioners and must be performed by a separate board.

6.6.4 BOARD OF COUNTY COMMISSIONERS STATEMENT

A. PLAN CONSISTENCY

1. When adopting or rejecting any zoning text or map amendment, the Board of County Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of County Commissioners that at the time of action on the amendment the Board of County Commissioners was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of County Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

6.6.5 ADDITIONAL REASONABLENESS STATEMENT FOR REZONINGS

When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of County Commissioners statement on reasonableness may address the overall rezoning.

A. SINGLE STATEMENT PERMISSIBLE

- B. The statement of reasonableness and the plan consistency statement required by this Section may be approved as a single statement.

6.7 REVIEW BY GLOBAL TRANSPARK

- A. In order to exercise their statutory authority over zoning, land use, and development regulation, an authorized representative of the GTP or a designee may be present at all hearings involving a land use decision within their jurisdiction or send written commentary, decision, denial, conditions, or authorization by the date of the hearing, to be incorporated into the public record and made part of the decision-making process. On a case-by-case basis, at the written request of the North Carolina Global TransPark Authority, the Board of Commissioners shall have decision-making authority.
- B. Should GTP desire to initiate a future rezoning or change to the GTP Overlay (text regulations, permitted uses, boundaries, or any combination thereof) or initiate any development proposal or application, GTP will initiate a rezoning, text/ordinance amendment, or other required application through the County. Approval will occur through the appropriate review process (administrative, legislative, or quasi-judicial), with adequate public and legal notification, and GTP will issue approval per their statutory authority and as otherwise described herein.
- C. Unless not required by the GTP, all development within the GTP Overlay requires submittal of a site plan for review. Upon receipt of a properly prepared and submitted site plan, the Planning Department shall obtain the necessary comments and recommendations from the NC Department of Transportation, the County Health Department, the County Emergency Services Department, and a representative from the Global TransPark Authority. The Planning Department Staff, the County Manager, or designee, and other agencies as deemed appropriate along with the developer, shall meet to review the plans and comments. The technical review shall be completed within thirty (30) calendar days of submission of a complete and accurate plan.
- D. Upon completion of the technical review of the plan, the Zoning Administrator shall approve or disapprove the plan. The Zoning Administrator shall have forty (40) calendar days to take action on the plan. All conditions required by the GTP must be met prior to approval.

ARTICLE 7. PERMIT CHOICE AND VESTED RIGHTS

7.1 FINDINGS

County approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. It is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

7.2 PERMIT CHOICE

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 160D-108 applies.

7.3 VESTED RIGHTS

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- A. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
- B. Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
- C. A site-specific vesting plan pursuant to Article XIV.
- D. A multi-phased development pursuant to Subsection 7.5 of this Section.
- E. A vested right established by the terms of a development agreement authorized by Article 10 of 160D.

The establishment of a vested right under any subdivision of this Subsection does not preclude vesting under one or more other subdivisions of this Subsection or vesting by application of common law principles. A vested right, once established as provided for in this Section or by common law, precludes any action by the County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating County enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

7.3.2 DURATION OF VESTING

Upon issuance of a development permit, the statutory vesting granted for a development project is effective upon filing of the application in accordance with N.C. GS § 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this Section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. For the purposes of this Section, a permit is issued either in the ordinary course of business of the County or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this Section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this Section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any Planning Board proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this Section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

7.3.3 DURATION AND TERMINATION OF VESTED RIGHT

- A. A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the County.
- B. Notwithstanding the provisions of Section [7.3.2](#), the County 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. These determinations are in the sound discretion of the County and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with Subsection [7.3.2](#) of this Section.
- C. Upon issuance of a building permit, the provisions of N.C.GS § 160D-1111 and N.C. GS § 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this Section is outstanding.
- D. A right vested as provided in this Section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

7.4 MULTIPLE PERMITS FOR DEVELOPMENT PROJECT

Subject to Subsection 7.3.2 of this Section, where multiple County development permits are required to complete a development project, the development permit applicant may choose the version of each of the County land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this Subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

7.5 MULTI-PHASED DEVELOPMENT

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.

7.6 PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Enforcement Officer or other officer designated this Ordinance who shall make an initial determination as to the existence of the vested right. The decision of the Zoning Enforcement Officer may be appealed under Subsection [6.4.5](#). On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under Subsection [6.4.5](#), a person claiming a vested right may bring an original civil action as provided by N.C.GS § 160D-1403.1.

7.7 MISCELLANEOUS PROVISIONS

The vested rights granted by this Section run with the land except for the use of land for outdoor advertising governed by N.C. GS §136-131.1 and N.C. GS §136-131.2 in which case the rights granted by this Section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this Section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this Section, nothing in this Section shall be construed to alter the existing common law.

7.8 SITE-SPECIFIC VESTING PLAN

A site-specific development plan is a plan which has been submitted to Lenoir County

under the provisions of the Lenoir County Zoning Ordinance by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.

A site-specific vesting plan consists of a plan submitted to the County in which the applicant requests vesting, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the County. Unless otherwise expressly provided by the County, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this Section that would trigger a vested right shall be finally determined by the County pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

7.9 ESTABLISHMENT OF VESTED RIGHT

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this Section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

7.10 APPROVAL AND AMENDMENT OF PLANS

If a site-specific vesting plan is based on an approval required by this Ordinance, the County shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not

affect the duration of the site-specific vesting plan established under this Section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by N.C. GS § 160D-602 shall be held.

The County may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The County shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the County's decision approving the plan or another date determined by the Board of Commissioners upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the County as follows: any substantial modification must be reviewed and approved in the same manner as the original approval.

7.11 CONTINUING REVIEW

Following approval or conditional approval of a site-specific vesting plan, the County may make subsequent reviews and require subsequent approvals by the County to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The County may, pursuant to Section [1.10.4](#), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

7.12 SUBSEQUENT CHANGES PROHIBITED; EXCEPTIONS

- A. A vested right, once established as 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 an approved site-specific vesting plan, except under one or more of the following conditions:
 1. With the written consent of the affected landowner.
 2. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific 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 consulting fees incurred after approval by the County, together with interest as provided under G.S. 160D-106. Compensation

shall not include any diminution in the value of the property which is caused by the action.

4. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the County of the site-specific vesting plan or the phased development plan.

Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development 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 an evidentiary hearing.

ARTICLE 8. SUBDIVISION REGULATIONS

8.1 AUTHORITY

The provisions of this ordinance are adopted under authority granted by the General Assembly of the State of North Carolina in Article 8, Chapter 1160D of the North Carolina General Statutes.

8.2 TITLE

This ordinance shall be known as the Subdivision Regulations of the County of Lenoir, North Carolina, and may be referred to as the Subdivision Regulations.

8.3 JURISDICTION

On and after July 1, 2001, these regulations shall govern each and every subdivision of land lying within the County and outside the subdivision regulation jurisdiction of any municipality, and the subdivision of land within the subdivision regulation jurisdiction of any municipality whose governing body by resolution agrees to such regulations.

8.4 METES AND BOUNDS TRANSFER

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 these regulations. A plat shall be prepared, approved and recorded pursuant to these regulations whenever a subdivision of land takes place.

8.5 PURPOSE

The purpose of this ordinance is to regulate and control the subdivision of land within Lenoir County excluding the subdivision regulation jurisdiction of any municipality within the County in order to promote the public health, safety, and general welfare of the County. The ordinance is designed to promote the orderly development of the County; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic which shall avoid congestion and overcrowding and which will create conditions essential to public health, safety, and the general welfare. This ordinance is designed further to facilitate adequate provision for water, sewerage, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land. Conformance Prerequisite to Extension of Public Services, Etc. No building permits shall be issued nor shall water, sewer or other public facilities or services be extended to or connected with any subdivision for which a plat is required to be approved unless and until the requirements set forth in this ordinance have been met.

8.6 CONFORMANCE WITH OFFICIAL PLANS

All subdivisions shall comply with the principles, goals and objectives of the

Lenoir County Future Land Use Plan, as amended from time to time, and all other officially adopted plans and policies of the County. In addition, proposed subdivisions must comply with the requirements of the zoning regulations of the County.

8.7 EROSION AND SEDIMENTATION PLAN AND WATER SUPPLY WATERSHED

All subdivisions which require an erosion and sedimentation plan must be reviewed by the North Carolina Division of Water Quality for compliance with the Water Supply Watershed Protection Rules (15A NCAC 2B.0200). All subdivisions located within WS-IV-CA (Critical Area) or WS-IV-PA (Protected Area) as described in the Lenoir County Watershed Protection Ordinance shall comply with all of the regulations of the Watershed Protection Ordinance along with the regulations of this Ordinance.

8.8 RE-ENACTMENT AND REPEAL OF EXISTING SUBDIVISION ORDINANCE

This Ordinance in part carries forward by re-enactment some of the provisions of the Subdivision Ordinance of Lenoir County and its amendments, originally adopted on re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Subdivision Ordinance, which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Subdivision Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

8.9 DEDICATION AND ACCEPTANCE

8.9.1 RIGHTS - OF-WAY AND EASEMENTS

- A. 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 properly deed restricted or considered to be offered for dedication until such offer is officially accepted by the County. The offer may be accepted by the County through:
 5. Express action by the Board of County Commissioners of Lenoir County;

6. Express action by an administrative officer designated by the Board of County Commissioners of Lenoir County; or
 7. 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 homeowners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.
- C. MAINTENANCE
8. The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted.

8.9.2 EXEMPTION 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 Administrator maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the Administrator. An owner of land who wishes to record a plat of such a division of land shall submit the plat, a completed application, and the review fee to the Administrator. The plat shall have a Certificate of Accuracy and Mapping (signed), Certificate of Exemption, Certificate of Review Officer, and a Certificate of Registration by Register of Deeds.

8.10 DESIGN STANDARDS

8.10.1 GENERAL PROVISIONS

The design standards in this Article shall be minimum requirements; where other official engineering and public works standards and specifications are more stringent, such higher standards shall be used. Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of this Ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this Ordinance.

A. DESIGN

1. All proposed subdivisions 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. The design of all utility, stormwater, street, recreation and park improvements shall be reviewed and approved by the County staff, NCDOT or the applicable service provider.

B. DEVELOPMENT NAME

1. In no case shall the name of a proposed development duplicate or be phonetically similar to an existing development name in Lenoir County unless the proposed development is an extension of an existing subdivision.

C. REASONABLE RELATIONSHIP

1. 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.

D. SUITABILITY OF LAND

1. All subdivision proposals shall be consistent with the need to minimize flood damage. Any subdivision proposal located within the Special Flood Hazard Boundary as defined in this Ordinance shall conform with the regulations of the Lenoir County Flood Damage Prevention Ordinance.

8.10.2 SPECIFIC REQUIREMENTS

A. ALLEYS

1. Design standards for alleys that are permitted shall be approved by the North Carolina Department of Transportation, Division of Highways.

B. BLOCKS

1. Blocks shall be laid out with special attention given to the type of use contemplated.
2. Block lengths shall not exceed one thousand four hundred (1,400) feet or be less than four hundred (400) feet.
3. Blocks shall have a sufficient width to allow two (2) tiers of lots of minimum depth. Blocks may consist of single tier lots where such are required to separate residential development from through vehicular traffic or nonresidential uses or where necessitated by the configuration of the tract.

C. CUL DE SACS

1. Cul de Sacs or Dead End Roads shall not exceed 1500 feet unless authorized by the Planning Director.

D. BUFFER STRIPS

1. A buffer strip between 25 and 50 feet in depth, in addition to the normal lot depth, shall be required in residential subdivisions adjacent to railroads, limited access highways, blue line streams in accordance with NC Division of Water Quality Neuse River buffer rules and commercial or industrial developments. The strip shall be part of the platted lots, but shall have the following restriction lettered on the face of the plat: "This strip reserved for screen planting by the owner; the building of structures hereon is prohibited." Any plantings within the buffer area specified above shall be located so as not to create a visual obstruction at street intersections or at driveways.

E. EASEMENTS

1. Utility and other easements shall be provided as follows:
 - a. The minimum required drainage easement width shall be at least 15 feet for an open drainage way and 20 feet for a closed (piped) drainage way. The easement, including the maintenance area will be uniform in width and subject to approval by the Planning Department. Shallow swale easements along the perimeter of lots may be less than thirty (30) feet provided they are approved by the Planning Department.
 - b. Easements up to thirty (30) feet or more in width will be required for gravity

sewer lines and not less than fifteen (15) feet for water lines, other underground and above ground public utilities, or for piped drainage facilities. Where practical, subdivisions shall be designed in such a manner that lots may be served from the rear utility easements

- c. 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. Subdividers are encouraged to place all electrical, telephone and cable television lines underground.
- d. 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.
- e. Easements for public utilities shall be centered on rear lot lines, and across lots or centered on side lot lines.
- f. 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.

F. FIRE HYDRANTS

1. The subdivider shall be responsible for providing adequate fire protection for the subdivision through the provision of fire hydrants. These fire hydrants shall be constructed to specifications established by the county Fire Marshall, based on NFPA standards. Hydrants shall be required as follows:
 - a. Subdivision with central water system: the subdivider shall be required to install a fire hydrant at the entrance to the subdivision and additional hydrants equal either to the total linear feet of roadway divided by 1000 or the total number of lots/units divided by 40, whichever is greater. These additional hydrants shall be spaced evenly through the subdivision. The spacing requirement for attached housing projects shall be 300 feet unless the Fire Marshal approves otherwise.
 - b. Subdivision with surface water bodies: the subdivider shall be required to do one of the following:
 - c. Install a dry fire hydrant as close to the water source as possible with the adequacy of the water source and the location of the dry fire hydrant to be determined by the County Fire Marshall; or
 - d. Establish an easement or road to the water source providing permanent all-weather access that is adequate for fire-fighting equipment and vehicles as determined by the County Fire Marshall.

G. LOT CORNERS

1. Lot corners, other than those marked by permanent monuments as herein described, shall be marked by metal stakes not less than three-quarter (3/4) inches in diameter, no less than two and one-half (2 ½) feet in length.
- H. LOTS
1. Lots shall be laid out as follows:
 - a. Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Every residential lot shall front a public or private street for a distance of at least 40 feet. Lots shall be sized to comply with the requirements of on-site waste disposal and water supply facilities. Every lot shall have sufficient lot area, lot dimensions, and building setbacks to permit a principal building to be erected thereon in compliance with the requirements in the tables in Section 4.5 and Section 4.6.2. Lots not served by public water and/or sewer service shall comply with the specifications and standards of the Lenoir County Environmental Health Department, but in no case shall the lot size be less than the minimum lot size required in the tables in Section 4.5 and Section 4.6.2.
 - b. Corner lots shall have width sufficient to permit adequate building setback from side streets.
 - c. Double frontage or reverse frontage lots shall be avoided except where necessary to separate residential development from through traffic or nonresidential uses.
 - d. Side lot lines shall be substantially at right angles or radial to street lines.
 - e. In no instance shall the area for nitrification lines (septic tank drain field and repair area) for a residential lot be less than the size determined to be adequate by the Lenoir County Environmental Health Department after investigation of soil conditions, proposed individual disposal system, and depth of ground water.
 - I. Lot Line Configuration: Sidelines of lots should be at or near right angles or radial to street lines. No intersecting lot lines shall have an angle of less than 60 degrees.
 - J. 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.

Figure 8-1 Lot Width

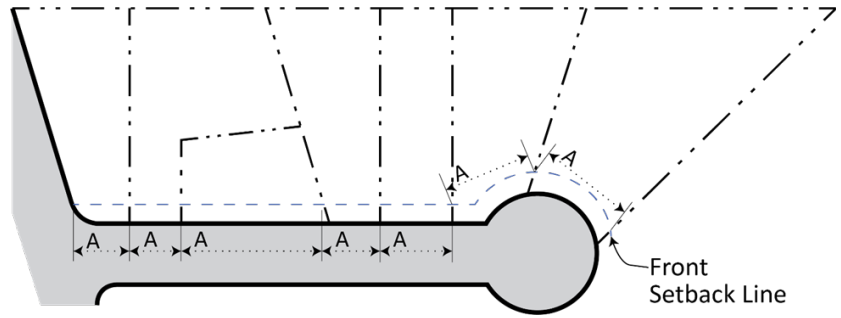


Figure 8-2 Lot Depth

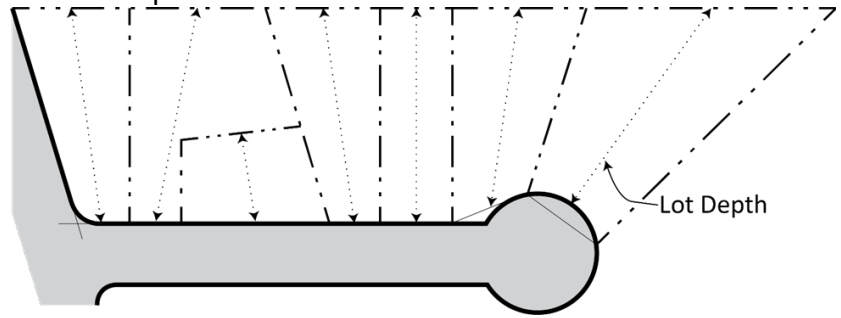
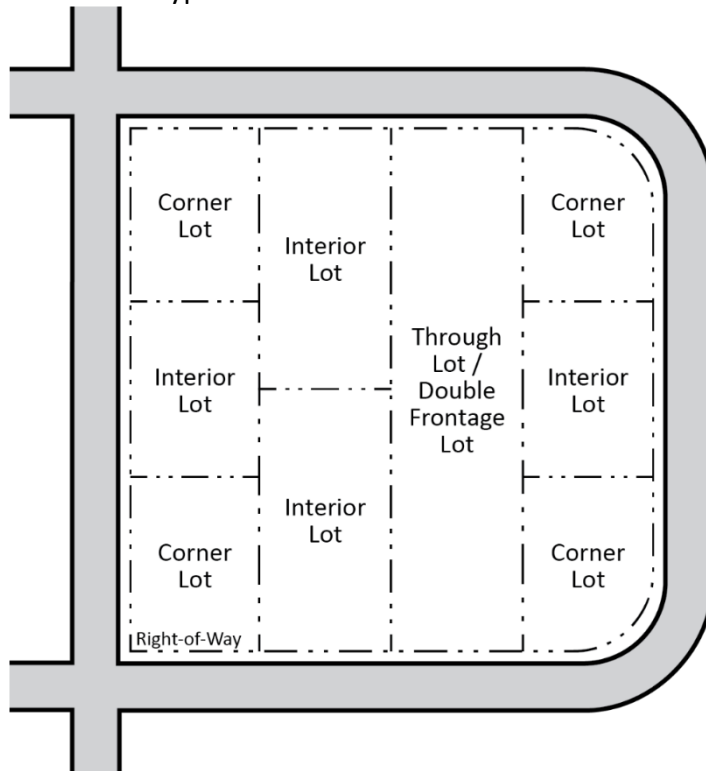


Figure 8-3 Lot Types



K. ACCESS REQUIREMENTS

1. General Access Requirements and Alternative Means of Access: All lots shall abut and have direct access to a publicly maintained street, except as provided for in this section. It is the intention of this section that newly created lots and parcels have access to a public street to ensure
 - a. legal ingress and egress for the owner/user of the lot, emergency vehicles, and public service vehicles;
 - b. adequate provision of an all-weather travel surface; and
 - c. sufficient means for the long-term maintenance of the roadway.
2. As an alternative, access may be permitted from a private street meeting the standards delineated in Section [8.10.2](#). The Technical Review Committee may approve alternative means of access if, in its opinion, the alternative means of access proposed will sufficiently meet the intention of this section and comply with the conditions delineated herein.
3. Lots and units located in developments with Homeowners' Associations or in group housing developments in which permanent access is guaranteed by means of approved private streets and/or drives designed in accordance with the requirements of Section [8.10.2](#) may be approved by the Technical Review Committee as an alternative means of access to a public street.
4. Lots served by an access easement may be approved by the Technical Review Committee as an alternative means of access provided that the following requirements are met:
 - a. An access easement shall serve no more than 3 residential parcels;
 - b. The minimum easement width shall adhere to the width requirements in Section 4.5 Table of Dimensional Requirements.
 - c. A minimum travelway of 16 feet in width with a minimum height clearance of 14 feet shall be provided;
 - d. The travelway shall have an all-weather surface;
 - e. The access easement shall intersect with an approved public street;
 - f. The creation of lots on an access easement shall be limited to a one-time occurrence for any one parcel or tract existing at the time of the adoption of this Section.
 - g. No re-subdivision of lots located on an access easement shall be permitted unless access can be upgraded to a private street or public street. A notation shall be placed on the face of the plat that states: 'No additional lots, including the re-subdivision of the lots served by the access easement, shall be permitted unless the access easement is upgraded by the property owner(s) to a private street or public street that meets or exceeds the standards of Lenoir County or the NCDOT, whichever is applicable';
 - h. A disclosure statement (see Article VII) stating that maintenance of the access easement is the responsibility of the property owner(s) shall be placed on the plat;
 - i. A recorded maintenance agreement shall be required in cases where more than one lot is served by the access easement;

- j. The location of the easement must be recorded on a plat; and
 - k. The access easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot(s).
5. Special Access Requirements for Subdivisions Located Adjacent To Thoroughfares with Capacity Deficiencies and for Nonresidential Subdivisions
- a. Major and minor subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads that have, in the opinion of the NCDOT and the Technical Review Committee, capacity deficiencies that warrant the prohibition of the platting of lots with direct vehicular access.
 - b. Whenever a proposed major or minor subdivision abuts any principal arterial, minor arterial, major collector, or minor collector (as delineated on the latest adopted Thoroughfare Plan), the Technical Review Committee, or the Administrator in the case of a minor subdivision, may prohibit the platting of lots with direct vehicular access to such roads. The Technical Review Committee's or Administrator's decision to require suitable access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise.
 - c. In order to reduce traffic congestion, commercial and industrial subdivisions may be required to provide a frontage road or other suitable means of access along major thoroughfares, as shown on the adopted thoroughfare plan, unless the Technical Review Committee determines that no practicable alternative for access exists. Where a frontage road is required, intersections with public streets shall be spaced no closer than 800 feet. Frontage roads may be permitted within the rights-of-way of existing streets subject to the approval of the NCDOT.
- L. STREETS
- 1. All streets, shall be constructed, inspected and approved in accordance with the following requirements.
 - 2. Construction: Each street segment public or private, shall be classified and constructed in accordance with the N. C. Department of Transportation's "Subdivision Roads-Minimum Construction Standards" as amended. Exceptions to these standards, however, are as follows:
 - a. The classification and, as a result, the construction standards for a public or private street segment may be upgraded to a higher classification if that street segment will eventually be required to provide access to or collect traffic from future development on adjacent properties.
 - b. Permanent drainage easements may be required as needed.
 - 3. Inspection and approval:
 - a. All public streets shall be inspected and approved by the District Engineer, N. C. Department of Transportation, Division of Highways.
 - b. All private streets shall be approved by Lenoir County upon inspection and recommendation by the Planning Department. All materials shall meet the

requirements of the "North Carolina Standard Specifications for Roads and Structures".

4. Private Streets: Streets designated as private may be allowed in subdivisions when in the opinion of the Technical Review Committee, they provide adequate ingress and egress onto collector streets, and sufficient assurance is provided through legally established Homeowner's Associations, that the street shall be properly maintained. All such streets shall be designated as "Private Street" on the preliminary plans and final plats and meet all design requirements of Section 9.4.2 of this Ordinance. Whenever a private street intersects a U.S. or N.C. highway or N.C. Secondary Road, a statement of approval for the intersection, signed by the District Engineer, North Carolina Department of Transportation, Division of Highways for Lenoir County, shall be submitted concurrent with the final plat.
 - a. All streets designated for private use shall meet the minimum paving and right-of-way requirements set forth by the N.C. Department of Transportation. Paving for private streets having low traffic volume may be limited to aggregate base or other soil stabilization suitable to ensure safe passage for emergency vehicles.
 - b. The County will require a written certification, signed and sealed by a licensed Professional Engineer that the roads meet the NCDOT Subdivision Roads Minimum Construction Standards.
 - c. Certain minor streets designated for private use may be excepted from established state geometric standards for minimum centerline radii. Acceptable street alignment centerline radii may be approved by the Technical Review Committee after consideration of such conditions including but not limited to: topography, tree preservation, reduction of speed to safe levels, and the total number of anticipated trips per day.

M. WATER SUPPLY AND SEWAGE DISPOSAL

1. Every lot in a subdivision shall be served by a water supply system and a sewage disposal system that:
 - a. is adequate to accommodate the reasonable needs of the proposed use of the lot and
 - b. complies with all applicable health regulations and/or the County of Lenoir's specifications and standards for water and sewer facilities.
2. The subdivider shall submit to the Planning Department along with the final plat a letter of approval of water supply and sewage disposal system signed by the appropriate authority. The subdivider shall install these facilities in accordance with the approved plans.

N. UTILITIES AND STORMWATER MANAGEMENT

1. Utility Construction Plans: Construction plans for all water and sanitary sewer facilities shall be submitted to the County or other appropriate utility provider following preliminary plat approval. For each subdivision section, the 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. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the applicable utility provider.

2. Utility Improvements Inspection: Work performed pursuant to approved utility construction plans shall be inspected and approved by the applicable utility provider.
3. Public Water and Sewer Construction Requirements:
 - a. Water and sewer lines, connections, and equipment shall be constructed in accordance with state and local regulations and policies and to the specifications and standards of the applicable utility provider.
 - b. In the interest of adequately providing service to adjacent properties, the County may require the installation of certain oversized utility improvements or the extension of utility improvements to adjacent properties.
4. Water and Wastewater Disposal Connection:
 - a. Connection of each lot to public water and sewer utilities shall be required if the proposed subdivision is within the minimum distance of the nearest adequate lines of a public system specified in the following table, provided that no geographic or topographic factors would make such connection infeasible or that a specific variance of this requirement is granted by the Technical Review Committee in cases where it is not legally possible to obtain necessary easements for extending the utility lines:

DWELLING UNITS	DISTANCE TO PUBLIC SYSTEM
0 to 10	200'
11 to 20	300'
21 to 50	600'
51 to 100	1,000'
101 or more	1,500'

- b. If the tract to be subdivided is proposed to contain the number of dwelling units indicated in the left-hand column of the above table or with a nonresidential use that places a comparable demand on the water and/or sewer system, then the distance within which the tract must be connected is indicated in the right hand column of the table. In determining the number of dwelling units proposed for the tract, all phases of the proposed subdivision shall be considered.
 - c. Water and sewer lines shall be constructed in conformance with the design criteria of the County or to the standards and specifications of another water and sewer service provider if applicable.
 - d. Where public water is not available, wells and/or other private water systems shall be constructed in accordance with the standards and specifications of the Lenoir County Environmental Health Department, applicable County ordinances, and applicable State of North Carolina

regulations.

5. Stormwater Management: All Major Subdivisions consisting of 15 lots or more shall submit engineering plans for the subdivision's Storm Water Management.
6. An adequate surface water 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. The surface water drainage system plan shall be designed in accordance with the Sedimentation Pollution Control Act, the North Carolina Stormwater Run-off Regulations, the Handbook for the Design of Highway Surface Drainage Structures, and the specifications and standards of the NCDOT.
7. 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. The 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.
8. No surface water shall be channeled into a sanitary sewer.
9. Where feasible, the subdivider shall connect the new subdivision's storm drainage system to an existing storm drainage system. Where an existing storm drainage system cannot feasibly be extended to the new subdivision, a drainage system shall be designed to protect the proposed development from water damage. Ten-year storm drainage data shall be used as a minimum standard for storm drainage system design.
10. Electric Power: Every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of the uses anticipated within the subdivision.
11. Telephone Service: Every lot within a subdivision shall have available to it a telephone service cable adequate to accommodate the reasonable needs of the uses anticipated within the subdivision.
12. Sidewalks:
 - a. If sidewalks are provided, they shall be a minimum of four feet in width and shall be a minimum of four inches in depth.
 - b. As provided in NCGS 136-44.14, whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the NCDOT.
13. Surface Water Drainage:
 - a. All drainage construction must meet applicable minimum standards required by the state.
 - b. Wetlands, natural depressions and areas of good draining soils may be used in the development of drainage plans if they exist.
 - c. Discharge of runoff from impervious surfaces directly into natural water bodies shall not be allowed. Runoff shall be routed along vegetated swales,

through filter media of vegetation, gravel, sand, or other media, or to detention ponds for the purpose of increasing percolation and settling and filtering out non-point pollutants.

14. 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. All subdivisions shall be tied to the state coordinate system (State Plane, NAD 1983). Permanent monuments shall be in compliance with North Carolina General Statute 47-30.
15. Coordination with State and Federal Requirements: All lots, structures, utilities, land disturbing activities, and filling activities shall comply with all applicable state and federal regulations, including but not limited to, Section 404 of the Clean Water Act, Code of Federal Regulations; and the Sedimentation Pollution Control Act of 1973. Whenever there is a conflict between requirements, the more restrictive shall apply.

8.10.3 IMPROVEMENTS

A. IN GENERAL

1. Subdivisions may be developed by sections. Each section shall be submitted as a final plat to be recorded in the office of the Register of Deeds.
2. Improvements shall be installed in accordance with the requirements and standards set forth in this ordinance and other specifications and policies of Lenoir County. The Planning Department shall review the improvements to verify general conformity to the approved preliminary plans. The developer shall inform the various County inspection officials as to the progress of field work so that timely Planning may be made.

B. GUARANTEES OF IMPROVEMENTS

1. Final plats of a subdivision shall be approved by the Planning Department after the subdivider has complied with one (1) or a combination of the following requirements not exceeding 1.25 times the entire cost of improvements as provided herein:
2. All required improvements have been installed in accordance with the requirements of this ordinance, or
3. A bond or certified check from a bank or other qualified financial institution authorized to do business in North Carolina has been posted, which shall be payable to Lenoir County and shall be in an amount equal to 1.25 times the entire cost, as estimated by the subdivider and approved by the Technical Review Committee, of installing all required improvements or
4. An irrevocable letter of credit issued by a bank or other qualified financial institution authorized to do business in North Carolina in a form approved by the County Attorney. The irrevocable letter of credit shall be payable to Lenoir County and shall be in an amount equal to 1.25 times the entire cost, as estimated by the subdivider and approved by the Technical Review Committee,

of installing all required improvements.

5. No surety or portion thereof, as provided for in this section, shall be released by the Planning Department until all improvements have been installed, inspected and approved, and until all required certification of such approval has been presented to the County.
- C. Default: Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in this Ordinance, then the financial institution that issued the bond, certified check, or irrevocable letter of credit shall, if requested by the Planning Department, pay all or any portion of the amount needed to complete the improvements based on engineering estimates. Upon payment, the Planning Department, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The County shall return to the subdivider any funds not spent in completing the improvements.

8.10.4 HOMEOWNER'S ASSOCIATION

A homeowner's association shall be established in accordance with NC General Statute 47F for each subdivision containing private streets and drainage systems. The final plat for each subdivision shall contain a certificate indicating the book and page number of the Homeowner's Association covenants, conditions and restrictions. The covenants, conditions and restrictions shall specify lot owners' responsibilities for maintenance of private streets and drainage systems and shall provide for assessments to finance all maintenance activities. (Additional covenants shall provide that the Homeowner's Association will construct stub streets prior to offering any connecting streets for acceptance by NCDOT. Final plats for subdivisions containing private streets and drainage improvements will not be approved until the subdivider's Homeowner's Association documents have been submitted and approved by the Planning Department.

A. ESTABLISHMENT OF HOMEOWNERS' ASSOCIATION

1. Creation. A Homeowners' 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.
2. Conveyance. Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Homeowners' 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 Homeowners' Association.
3. Subdivision or Conveyance of Common Area. Common areas shall not be subsequently subdivided or conveyed by the Homeowners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or

conveyance have been submitted and approved.

- B. Homeowners' Association Not Required. Developments involving only two units attached by a party wall shall not be required to have common areas or an Homeowners' Association. Developments with only two units attached and not having an Homeowners' Association shall have an agreement between owners concerning maintenance of party walls.
- C. SUBMISSION OF HOMEOWNERS' ASSOCIATION DECLARATION
 - 1. 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 Homeowners' 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 Planning Director as to their sufficiency. The restrictions shall include provisions for the following:
 - 2. Existence Before Any Conveyance. The Homeowners' 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.
 - 3. Membership. Membership in the Homeowners' 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.
- D. HOMEOWNERS' ASSOCIATION DECLARATION
 - 1. Responsibilities of Homeowners' Association. The Homeowners' 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 Home Owners' Association: Upon default by the Home 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 Homeowners' 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 Homeowners' 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 streets 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 and restoration in the event of destruction or damage shall be established.

8.10.5 PUBLIC SITES AND OPEN SPACES

A. PLANNED THOROUGHFARES

1. Reservations when subdivision served by planned thoroughfare.
2. When any portion of a major or minor thoroughfare shown on the Lenoir County Thoroughfare Plan or equivalent runs through and provides direct access to the tract of land to be subdivided, the Technical Review Committee, Planning Director or the Board of County Commissioners may require the subdivider to reserve the required right-of-way for such thoroughfare. No structures or buildings shall be placed on said reserved land. Reservations of land under this section shall not remain in effect longer than 12 months from the date of final plat recording.
3. Disclosure of planned thoroughfare.
4. When any portion of a proposed major or minor thoroughfare shown on the Lenoir County Thoroughfare Plan runs through the tract of land to be subdivided, both the preliminary plan and final plat for the subdivision shall disclose the presence of the planned thoroughfare. Disclosure shall be provided as follows:
5. A note on the plat stating: "This subdivision crosses a proposed thoroughfare right-of-way; present status should be confirmed with N.C. Department of Transportation."

B. RESERVATION OF SITES FOR PUBLIC FACILITIES

1. To insure orderly development of the County in accordance with the general principles set forth in the Lenoir County Development Plan, it is recommended that the subdivider reserve open spaces for such public purpose as parks, playgrounds, schools, and fire stations, and to provide the County an opportunity to buy this land at the fair market value for a period of six (6) months from the date of submission of the preliminary plat.

C. OPEN SPACE

1. No lots shall be allowed to extend into required open spaces defined elsewhere in this ordinance.
2. Permitted uses in open space.
3. Uses of open space may include the following:
 - a. Conservation areas for natural, archeological or historical resources;
 - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or

- c. similar conservation-oriented areas;
 - d. Pedestrian or multipurpose trails;
 - e. Passive recreation areas, including pocket parks;
 - f. Active recreation areas, such as ballfields and playgrounds, provided that
 - g. impervious area is limited to no more than 10 percent of the total open
 - h. space;
 - i. Golf courses (excluding clubhouse areas and maintenance facilities);
 - j. provided that impervious area is limited to no more than 10 percent of the proposed course area;
 - k. Above-ground utility rights-of-way, provided the area does not exceed 50
 - l. percent of the required open space;
 - m. Water bodies, such as lakes and ponds, and floodways provided the total
 - n. surface area does not exceed 50 percent of the required open space;
 - o. Landscaped stormwater management facilities;
 - p. Easements for drainage, access, and underground utility lines; and
 - q. Other conservation-oriented uses compatible with the purposes of these
 - r. regulations.
4. PROHIBITED USES OF OPEN SPACE
- a. Open space shall not include the following:
 - i. Wastewater disposal systems (except where septic drainage areas are maintained as common open space);
 - ii. Streets (except for street crossings as expressly provided above) and parking areas;
 - iii. Other activities as determined by the applicant and recorded on the legal
 - iv. instrument providing for permanent protection.

8.10.6 DUTY OF REGISTER OF DEEDS

The County Commissioners of Lenoir County shall file a copy of this ordinance with the Register of Deeds of Lenoir County. The Register of Deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of Lenoir County without the approval of the Administrator or the Technical Review Committee as required in this ordinance. The landowner shown on a subdivision plat submitted for recording or his authorized agent, shall sign a statement on the plat as to whether or not any land shown thereon is within the territorial jurisdiction of Lenoir County as defined herein. The filing or recording of a plat of a subdivision without the approval of the Administrator or the Technical Review Committee as required by this ordinance shall be null and void. The Clerk of Superior Court of Lenoir County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

Appendices . ENVIRONMENTAL

APPENDIX A WATER SUPPLY AND SEWAGE DISPOSAL

A.1 APPROVAL

No application for a Certificate of Zoning Compliance or Special Use Permit shall be approved unless the proposed methods of water supply and sewage disposal have been approved by the Lenoir County Health Department or the NC Department of Environment, Health, and Natural Resources if well and septic tanks are to be used. If water and sewer service will be provided by a municipality, sanitary district, County, or other governmental agency, approval must be obtained by said unit of government.

APPENDIX B WATERSHED PROTECTION ORDINANCE

B.1 AUTHORITY AND GENERAL REGULATIONS

A. AUTHORITY AND ENACTMENT

1. The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Lenoir County Board of Commissioners does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Lenoir County Jurisdiction.
2. The provisions of this Ordinance shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Lenoir County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Lenoir County Clerk to the Board of Commissioners and the Planning Department.

B. EXCEPTIONS TO APPLICABILITY

1. 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 Lenoir County. This shall include but not be limited to the provisions of the Lenoir County Subdivision Ordinance and the Lenoir County Zoning Ordinance. 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.

2. 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.
 3. Existing development, as defined in this ordinance, is not subject to the requirements of this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built upon area of the existing development is not required to be included in the density calculations.
 4. If a nonconforming lot of record is not contiguous to any other land 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 these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part any other exemption to the Lenoir County Subdivision Ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.
- C. CRIMINAL PENALTIES
1. Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day the violation continues shall constitute a separate offense.
- D. REMEDIES
1. If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Lenoir County Board of County Commissioners may, in addition, to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.
 2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures, or of additional, alterations or structures changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Lenoir County Planning

Board.

E. SEVERABILITY

1. Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not effect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

F. EFFECTIVE DATE

1. This Ordinance shall take effect and be enforced on the 1st day of May 2003.

B.2 SUBDIVISION REGULATIONS

A. GENERAL PROVISIONS

1. No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Article.
2. The approval of a plat does not constitute or effect the acceptance by Lenoir County or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
3. All subdivisions shall conform with the mapping requirements contained in N.C. GS § 47-30.
4. All subdivisions of land within the jurisdiction of Lenoir County after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.

B.3 SUBDIVISION APPLICATION AND REVIEW PROCEDURES

- A. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Zoning Administrator to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Zoning Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this ordinance only when an erosion and sedimentation plan is required under the provisions of State law or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.
- B. Subdivision applications shall be filed with the Zoning Administrator. The application shall include a completed application form, two (2) copies of the plat and supporting documentation deemed necessary by the Zoning Administrator or the Watershed Review Board.
- C. The Zoning Administrator shall review the completed application and shall either

approve, approve conditionally or disapprove each application. The Zoning Administrator shall take final action within forty-five (45) days of submission of the application. The Zoning Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:

1. The district highway engineer with regard to proposed streets and highways.
 2. The director of the Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department.
 3. The state Division of Water Quality with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general.
 4. Any other agency or official designated by the Zoning Administrator or Watershed Review Board.
- D. If the Zoning Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Zoning Administrator:

Certificate Of Approval For Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Zoning Administrator

- E. If the Zoning Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan, which shall constitute a separate request for the purpose of review.

All subdivision plats shall comply with the requirements for recording of the County Register of Deeds.

The plat shall be recorded within thirty (30) days of approval. The Subdivider shall provide the Zoning Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days.

B.4 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS

- A. All lots shall provide adequate building space in accordance with the development standards contained in Section B.7. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Section B.7.
- B. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

- C. Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- D. Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality.
- E. Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

B.5 CONSTRUCTION PROCEDURES

- A. No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved.
- B. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Zoning Administrator to provide for adequate inspection.

B.6 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of Lenoir County, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Lenoir County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

B.7 DEVELOPMENT REGULATIONS

- F. ESTABLISHMENT OF WATERSHED AREAS
 - 1. The purpose of this Article is to list and describe the watershed areas herein adopted.
 - 2. For the purposes of this Ordinance the County is hereby divided into the following areas:
 - a. WS – IV CA (Critical Area)

b. WS – IV PA (Protected Area)

B.8 WATERSHED AREA DESCRIBED

G. WS – IV WATERSHED AREAS – CRITICAL AREA (WS – IV – CA) Only new development activities that require an erosion / sedimentation control plan under State law or approved local program are required to meet the provisions of this ordinance when located in a WS – IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of two dwellings units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built upon area. New residual application sites and landfills are specifically prohibited. Where new development exceeds either two dwelling units per acre or 24% built upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall, development shall not exceed 50% built upon area and a high-density Watershed Protection Permit must be obtained.

1. Allowed Uses:

- a. Agriculture subject to the provisions of the Food Security Act of 1985 and the Food Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines
- c. Related to Water Quality (15 NCAC 1I.0101 - .0209).
- d. Residential Development
- e. Non – residential development, excluding:
 - i. the storage of toxic and hazardous materials unless a spill containment plan is implemented,
 - ii. landfills and,
 - iii. sites for land application of sludge / residuals or petroleum contaminated soils.

2. Density and Built – upon Limits:

- a. Single Family Residential – development shall not exceed two dwelling units per acre on a project-by-project basis. No residential lot shall be less than one-half (1/2) acre or 20,000 sq. ft. excluding roadway ROW, except within an approved cluster development.
- b. All Other Residential and Non-Residential – development shall not exceed twenty – four percent (24%) built upon area on a project-by-project basis. For the purpose of calculating the built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

H. WS – IV WATERSHED AREAS – Protected Areas (WS – IV – PA)

- 1. Only new development activities that require an erosion / sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS – IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of two (2) dwelling units per acre.

All other residential and non-residential development shall be allowed at a maximum of twenty four percent (24%) built upon area. A maximum of three (3) dwelling units per acre or thirty-six (36%) percent built upon area is allowed for projects without a curb and gutter street system. Development which exceeds the above requirements shall use engineered stormwater controls to control the first inch of rainfall and development shall not exceed 70% built upon area and a high-density permit be obtained.

2. Allowed Uses:
 - a. Agriculture, subject to the provisions of the Food and Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
 - c. Residential Development.
 - i. Non-residential development, excluding the storage of toxic and hazardous.
 - ii. materials unless a spill containment plan is implemented.
3. Density and Built-upon Limits:
 - a. Single Family Residential development shall not exceed two (2) dwelling units per acre as defined on a project-by-project basis. No residential lot shall be less than one-half (1/2) acre or 20,000 sq. ft. excluding roadway ROW, or one-third (1/3) acre for projects without curb and gutter system, except within an approved cluster development.
4. All Other Residential and Non-Residential – development shall not exceed twenty-four percent (24%) built upon area on a project-by-project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built upon area on project-by-project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

B.9 CLUSTER DEVELOPMENT

Clustering of development is allowed in all Watershed Areas under the following conditions:

- I. Minimum lots sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section B.8. Density or built upon areas or stormwater control requirements of the project shall not exceed that allowed for the critical area or protected area, whichever applies.
- J. All built upon area shall be designated and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- K. The remainder of the tract shall remain vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners 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.

- L. Cluster development is allowed on a project-by-project basis as follows:
 - 1. Overall density of the project meets associated density or stormwater control requirements under 15A NCAC 2B .0200;
 - 2. Buffers meet the minimum statewide water supply watershed protection requirements;
 - 3. Built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;
 - 4. Areas of concentrated density development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways;
 - 5. Remainder of tract to remain in vegetated or natural state;
 - 6. The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds; and
 - 7. Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

B.10 BUFFER AREAS REQUIRED

- A. A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low-density option; otherwise, a minimum fifty (50) foot vegetative buffer for development is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.
- B. No new development is allowed in the buffer area except for water dependent structures and other structures such as flag poles, signs, and security lights which result in only diminutive increases in impervious area, and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built upon surface area, direct stormwater away from the surface waters and maximize the utilization of stormwater Best Management Practices.

B.11 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- A. Where area boundaries are indicated as approximately following either street, alley, railroad, or highway centerlines thereof, such lines shall be construed to be said

boundaries.

- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the county as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance of more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by the use of the scale appearing on the watershed map.
- D. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the Zoning Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Planning Board.

B.12 APPLICATION OF REGULATIONS

- F. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- G. No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- H. If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class is prohibited.

B.13 EXISTING DEVELOPMENT

Existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

A. USES OF LAND

- 1. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
 - a. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - b. Such use of land shall be changed only to an allowed use.
 - c. When such use ceases for a period of at least one year, it shall not be reestablished.

B. RECONSTRUCTION OF BUILDINGS OR BUILT-UPON AREAS.

- 1. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or

reconstructed, except that there are no restrictions on single family residential development, provided:

- a. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
- b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

B.14 WATERSHED PROTECTION PERMIT

No Building Permit shall be issued for any activity for which a Watershed Protection Permit is required until that permit is issued.

- A. Except where a single-family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building or built upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Planning Department. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.
- B. Watershed Protection Permit applications shall be filed with the Planning Department. The application shall include a completed application form and supporting documentation deemed necessary by the Zoning Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- D. A Watershed Protection Permit shall expire if the applicant does not obtain a Building Permit or Watershed Protection Occupancy Permit for such use within twelve (12) months from the date of issuance.
- E. The Planning Board shall either approve or disapprove each Watershed Protection Permit application that uses the High-Density option.

B.15 WATERSHED PROTECTION OCCUPANCY PERMIT

- A. The Zoning Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy of use of a building hereafter erected, altered or moved and prior to the change of use or any building or land.
- B. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- C. When only a change in use or land or existing building occurs, the Zoning Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

- D. If the Watershed Protection Occupancy Permit is denied, the Zoning Administrator or Building Inspector shall notify the applicant in writing stating the reasons for denial.
- E. No building or structure, which has been erected, moved, or structurally altered, may be occupied until the Zoning Administrator or Building Inspector has approved and issued a Watershed Protection Occupancy Permit.

B.16 PUBLIC HEALTH REGULATIONS

A. PUBLIC HEALTH

- 1. No activity, situation, structure or land use shall be allowed within the watershed, 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 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.

B.17 ABATEMENT

- A. The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Zoning Administrator shall report all findings to the Planning Board. The Zoning Administrator may consult with any public agency or official and request recommendations.
- C. Where the Planning Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

B.18 ADMINISTRATION, ENFORCEMENT AND APPEALS

A. ZONING ADMINISTRATOR AND DUTIES THEREOF

- 1. It shall be the duty of the County Planner or authorized agent to administer and enforce the provisions of this ordinance as follows:
 - a. The Zoning Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Planning Department.
 - b. The Zoning Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Water Quality.
 - c. The Zoning Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his

responsibility the full police power of the county. The Zoning Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him, her, or them by this Ordinance.

- d. The Zoning Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Division of Water Quality of the N.C. Department of Environment and Natural Resources on an annual basis on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

B.19 APPEAL FROM THE ZONING ADMINISTRATOR

Any order, requirement, decision or determination made by the Zoning Administrator may be appealed to and decided by the Planning Board. The variance and appeal process shall follow the rules specified in the Lenoir County Zoning Ordinance.

B.20 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE

- A. The Lenoir County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- B. No action shall be taken until the proposal has been submitted to the Planning Board for review and recommendations. If no recommendation had been received from the Planning Board within forty-five (45) days after submission of the proposal to the Chairperson of the Planning Board, the Lenoir County Commissioners may proceed as though a favorable report had been received.
- C. Under no circumstances shall the Lenoir County Commissioners adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the Division of Water Quality.

B.21 PUBLIC NOTICE AND HEARING REQUIRED

Before adopting or amending this ordinance, the Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five days before the date fixed for the hearing.

B.22 STORMWATER CONTROL STRUCTURES

- A. STORMWATER CONTROL STRUCTURE DESIGN
 1. 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 architect, to the extent that the General Statutes, Chapter 89A allow land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89 (C) – 3(7).

2. All stormwater controls shall use wet detention as a primary treatment system unless alternative stormwater management measures as outlined in Section B.22 (A) (3) are used. Wet detention ponds shall be designed for specific pollutant removal to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the following design criteria:
 - a. 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;
 - b. The designed runoff storage volume shall be above the permanent pool;
 - c. 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 (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days.
 - d. The mean permanent pool depth shall be a minimum of three (3) feet;
 - e. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
 - f. 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;
3. Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. 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:
 - a. the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design within five days, but not less than two days; or
 - b. the post development peak discharge rate shall equal the predevelopment rate for the 1 year, 24-hour storm.
4. In addition to the vegetative filters required in Section B.22 (A) (2) (f), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) 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 B.23 (C).
5. A description of the area containing the stormwater control structure shall be prepared and filed consistent with Section B.26 (A and B) as a separate plat with

the Lenoir County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The plat 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.

6. 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.

B.23 POSTING OF FINANCIAL SECURITY REQUIRED

- A. 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.
- B. Financial assurance shall be in the form of the following:
 1. Security 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 Lenoir County or placed in escrow with a financial institution designated as an official depository of Lenoir County. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the Lenoir County Planning Board. 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 B.26 (C) (1), the permit applicant shall deposit with Lenoir County either cash or other instrument approved by the Planning Board that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the stormwater control structure or the cost of maintaining the stormwater control structure over a ten (10%) 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. The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by two fifths of 0.4.
- C. The permit applicant shall enter into a binding Operation and Maintenance Agreement between the Planning Board 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 signed by the County Manager and filed with the Lenoir County Register of Deeds by the Planning Board.

- D. Default under the performance bond or other security. Upon default of the permit applicant to complete the stormwater control structure as spelled out in the performance bond or other security, the Board may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Board 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 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 shall not return any of the deposited cash funds.

B.24 MAINTENANCE AND UPKEEP

- A. An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, 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 and Inspection Department 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 control structure and the operation and maintenance plan or manual. After notification by the owning entity, the County Planner 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 County Planner may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) designated by the Planning Board.
- 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 Planning Board. 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 and Inspection Department prior to consideration by the Planning Board.

1. If the Planning Board approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the Planning and Inspection Department.
2. If the Planning Board disapproves the changes, the proposal may be revised and resubmitted to the Planning Board 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.
3. If the Planning Board finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare and files copies of the revised agreement with the Lenoir County Register of Deeds, the Planning and Inspection Department and the owning entity.

B.25 APPLICATION AND INSPECTION FEES

- A. Processing and inspection fees shall be submitted in the form of a check or money order made payable to Lenoir County. Applications shall be returned if not accompanied by the required fee.
- B. A permit and inspection fee schedule, as approved by the Lenoir County Board of Commissioners, shall be posted in the Office of the Planning and Inspection Department.
- C. Inspection fees shall be valid for one year. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with Section B.24 (C), except in the case when a similar fee has been paid within the past year.

B.26 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND

- A. The stormwater control structure shall be inspected by the Planning and Inspection Department, after the owning entity notifies the Planning and Inspection Department that all work has been completed. At this inspection, the owning entity shall provide:
 1. The signed plat, related easements for the stormwater control structure ready for filing with the Lenoir 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.
- B. The County Planner shall present the materials submitted by the developer and the inspection report and recommendations to the Planning Board at its next regularly scheduled meeting.
 1. If the Board approved the inspection report and accepts the certification, plat

and easements, the Board shall file the plat and easements with the Lenoir County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and issue a Watershed Protection Occupancy Permit for the stormwater control structure, consistent with Section B15.

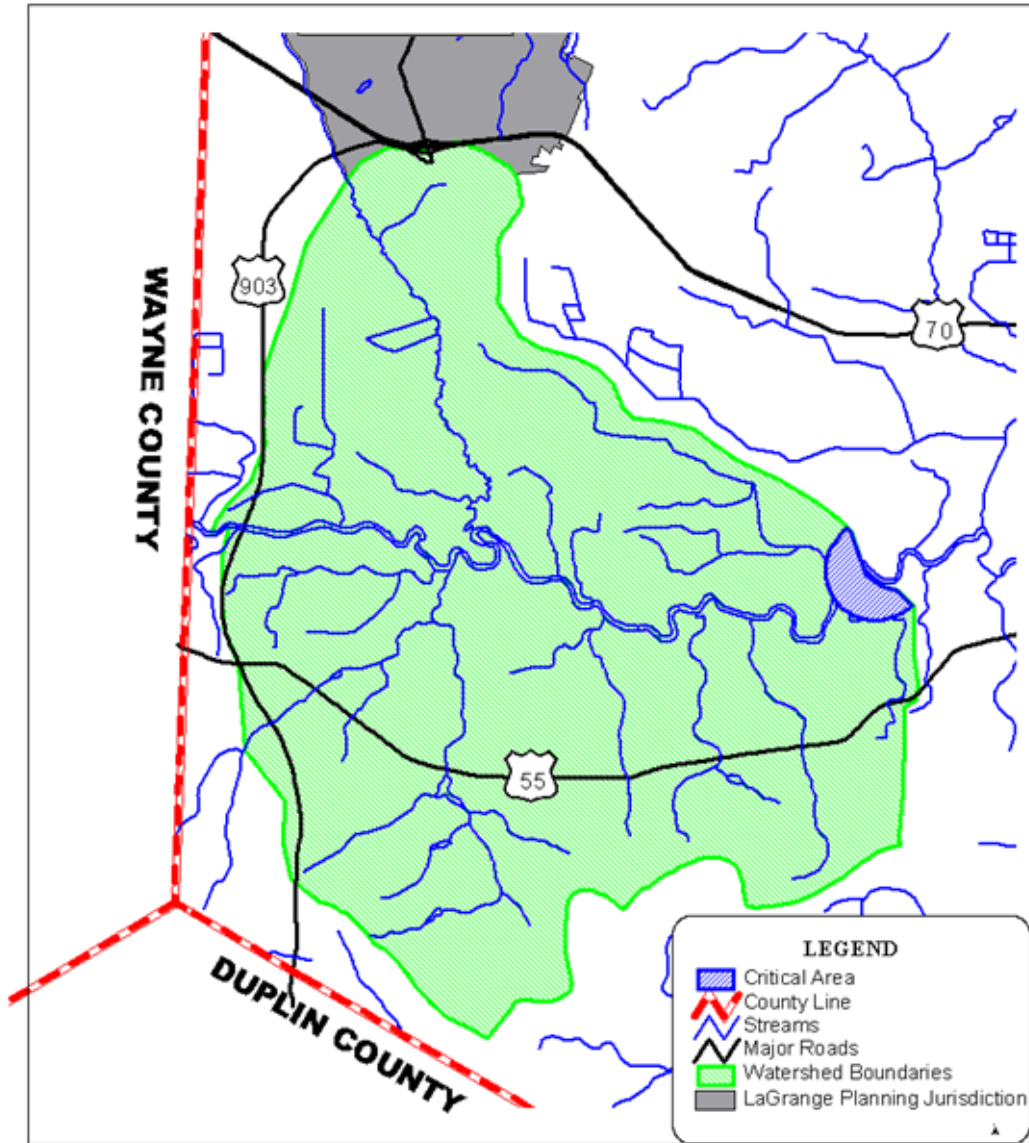
2. If deficiencies are found, the Board shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board.
- C. No sooner than one year after the filing date of the plat, easements and maintenance agreement, the developer may petition the Planning Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Planning and Inspection Department shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The County Planner shall present the petition, inspection report and recommendation to the Planning Board.
1. If the Board approves the report and accepts the petition, the developer shall deposit with the Planning Board a cash amount equal to that described in Section B.23 (B) (2) after which, the Board shall release the performance bond or other security.
 2. If the Board does not accept the report and rejects the petition, the Board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

B.27 SANCTIONS

In addition to the remedies described in Section B.1 of this Ordinance and consistent with G.S. 153A-123, the Planning Board may seek enforcement of this Ordinance through the Lenoir County Board of Commissioners by assessing a civil penalty to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the ordinance. Said violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the County may execute the order of abatement. The County shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement

of this ordinance may be by any one, all or a combination of the remedies authorized in this ordinance. Each day's continuing violation shall be a separate and distinct offense.

***OFFICIAL WATERSHED PROTECTION MAP OF
LENOIR COUNTY, NC
APRIL 21, 2003***



APPENDIX C FLOOD DAMAGE PREVENTION ORDINANCE

The stormwater management provisions apply seven sets of rules, covering the areas of erosion control, stormwater quantity, conservation or protected buffers, nitrogen reduction, water supply watershed protection, environmentally sensitive watershed protection and floodplain management. Lenoir County adopted floodplain regulations to be consistent with federal and state requirements. The section numbering organization of this section differs from the organization of other sections since it relates to the state's model statute.

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, and Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of the County of Lenoir, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

1. The flood prone areas within the jurisdiction of the County of Lenoir are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

1. Restrict or prohibit uses that are dangerous to health, safety, and property due

to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities that 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 all other development that may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are:

1. Protect human life, safety and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business losses and interruptions;
5. Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) located in flood prone areas;
6. Minimize damage to private and public property due to flooding;
7. Make flood insurance available to the community through the National Flood Insurance Program;
8. Maintain the natural and beneficial functions of floodplains;
9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure 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.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO or AH on a community’s Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1percent-annual-chance (100- year) flood based on future-conditions hydrology

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means 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.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before date the community’s entered into the NFIP.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means 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) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and,

(b) The unusual and rapid accumulation of runoff or surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, 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).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard 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.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means 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.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Developmental Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any type of development activity.

“Floodplain Management” means 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.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means 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, structures, and their contents.

“Flood-resistant Material” means any building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood resistant. Pressure treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that resist evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, (Flood Damage-Resistant Materials Requirements), and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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.

“Floodway Encroachment Analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility

necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

1. 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;
2. 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;
3. Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program; or
4. Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”
5. Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on a natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
2. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

3. Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's management regulations.
4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor 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.

"Manufactured Home" means 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".

"Manufactured Home Park or Subdivision" mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after January 1, 1975, the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before January 1, 1975, the effective date of the initial Flood Insurance Rate Map

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means 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.

“Recreational Vehicle (RV)” means 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;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and (e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE. (Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for

structures within all Special Flood Hazard Areas.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFE) have been determined, this elevation shall be the BFE plus two (2) feet. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts 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.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined, in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage 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 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.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste

“Solid Waste Disposal Site” means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred eighty (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 stage 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.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period 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. See definition of “substantial improvement”.

“Substantial improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one- year period which the cost 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 "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community 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 historical structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means 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.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, of the County of Lenoir.

SECTION B. 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 FEMA in its FIS dated January 1, 1975 and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdiction authority of the County of Lenoir are also adopted by reference and declared as a part of this ordinance. Subsequent Letter of Map Revisions (LOMR) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas as determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made 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 the County of Lenoir 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.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County of Lenoir from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Director of Planning & Inspections, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

3. **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
- a. A plot drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - ii. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - iii. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - iv. The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - v. The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Sections D;
 - vi. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - vii. The certification of the plot plan by a registered land surveyor or professional engineer.
 - b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - i. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - ii. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

- iii. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
 - iv. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- c. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- d. Usage details of any enclosed areas below the lowest floor.
- e. 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.
- f. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- g. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- h. A description of proposed watercourse alteration or relocation, when applicable, including 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 (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
4. **Permit Requirements.** The Floodplain Developmental Permit Shall include, but not be limited to:
- a. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool,

- septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- c. The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- d. The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- g. The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- h. Limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access and limited storage only).
- i. A statement, that all materials below BFE/REPE must be flood resistant materials.

5. **Certification Requirements.**

- a. (a) Elevation Certificates
 - i. An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - ii. An Elevation Certificate (FEMA Form 086-0-33) is required after the refence level is established. Within seven (7) days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder’s risk. 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 further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- iii. A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) 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 of the reference level and all attendant utilities. 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 required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of the certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, the photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable. Elevation Certificate is optional for floodplain management elevation data, but recommended. The use of FEMA Elevation Certificate is required for the purchase of flood insurance and mandatory for CRS participation, and this language should be included in its entirety.

b. Floodproofing Certificate

- i. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to

NAVD 1988. Floodproofing 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, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy. The FEMA Floodproofing Certificate is optional at the time of permitting the structure but recommended to ensure compliance with this ordinance and properly permit the structure.

- ii. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate 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, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- c. If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an professional engineer's certified 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 shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- e. Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- i. Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- ii. Temporary Structures meeting requirements of Article 5, Section B(7);
and
Accessory Structures that are 150 square feet or less or \$3,000 or less
and meeting requirements of Article 5, Section B(8).

6. Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- 1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- 2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 3. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse,

and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
6. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with the provisions of Article 4, Section B (3).
7. Obtain actual elevation (in relation to NAVD 1988) to which all new or substantially improved structures and utilities have been floodproofed, in accordance with Article 4, Section B(3).
8. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B (3).
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (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 article.
11. When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or nonencroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
12. When BFE data is provided but no floodway nor non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data, or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progress, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the

work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
17. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for 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 floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
18. Make periodic inspections throughout all Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of Article 4, Section D.
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

1. Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
2. Actions in Event of Failure to Take Corrective Action: If the owner of a building

or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating;

- a. That the building or property is in violation of the floodplain management regulations;
 - b. That a hearing will be held before the Floodplain Administrator 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; and
 - c. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
3. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specific time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
 4. Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 5. Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

1. The Lenoir County Planning Board as established by the County of Lenoir, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

2. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
3. Variances may be issued for:
 - a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - b. Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - c. Any other type of development provided it meets the requirements of this Section.
4. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. 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,

- k. 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 streets and bridges.
5. A written report addressing each of the above factors shall be submitted with the application for a variance.
 6. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
 7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance action, including justification for their issuance.
 8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
 9. Conditions for Variances:
 - a. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - b. Variances shall only be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued prior to development permit approval.
 - e. 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, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 10. A variance may be issued for solid waste disposal facilities or sites, hazardous

waste management facilities, salvage yards, and chemical storage facilities in Special Flood Hazard Areas provided that all of the following conditions are met.

- a. The use serves a critical need in the community.
- b. No feasible location exists for the use outside the Special Flood Hazard Area.
- c. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- d. The use complies with all other applicable federal, state and local laws.
- e. The County of Lenoir has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - a. Replacement part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - b. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. 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.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. 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, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Prevention Elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
12. All subdivisions proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
14. When the structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

1. Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight 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. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.
3. Manufactured Homes.
 - a. New or replacement manufactured homes shall be elevated so that the reference level the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured/Mobile Homes 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 thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - c. All enclosures or skirting below the lowest floor shall meet requirements of Article 5, Section B(4).
 - 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 Floodplain Administrator and the local Emergency Management coordinator.

Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- e. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway of elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas
 - f. Shall not be temperature-controlled or conditioned;
 - g. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - h. Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - iv. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - v. Flood openings may be equipped with screens, louvers, or either coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry and wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
4. Additions/Improvements.
- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. 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 structure,
- ii. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- b. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction
 - c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage 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 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - i. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - ii. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
5. Recreational Vehicles. Recreational vehicles shall either:
- a. Temporary Placement
 - i. Be on site for fewer than 180 consecutive days; or
 - ii. Be fully licensed and ready for highway use. (A recreational vehicle is

ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

- b. Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
6. Temporary Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
7. Accessory Structure. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall not be temperature-controlled.
 - c. Accessory structures shall be designed to have a low flood damage potential;
 - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
 - f. All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
 - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

8. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - a. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - b. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent floatation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - c. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this Article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - d. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - i. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during condition of the design flood; and
 - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
9. Other Development.
 - a. Fences in a regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
 - b. Retaining walls, sidewalks and driveways in a regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in a regulated floodway shall meet the limitations of Article 5, Section F of this ordinance.
 - c. Roads or watercourse crossings in a regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE has been provided by FEMA, the following provisions, in addition to the Provisions of Article 5, Section A, shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or 5 times the width of the stream, 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. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - a. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Section A and B.
 - b. When the floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Section B and F.
 - c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - d. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway or non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

1. Standards of Article 5, Section A and B; and
2. Until a regulatory floodway or non-encroachment area is designated, 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 (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - b. A Conditional Letter of Map Revision (COLMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
2. If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
3. Manufactured homes may be permitted provided the following provisions are met:

- a. The anchoring and the elevation standards of Article 5, Section B(3); and
- b. The encroachment standards of Article 5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are 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. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be 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. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION H. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

4. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. 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 on July 7, 1980, and it is not the intention to repeal but rather to reenact 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 the County of Lenoir enacted on July 7, 1980, as amended, which are not reenacted herein are repealed.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENTAL 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 the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION D. EFFECTIVE DATE

This ordinance shall become effective June 19, 2020.

SECTION E. ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of the County of Lenoir, North Carolina, on the 6th day of April, 2020.

WITNESS my hand and the official seal of the County of Lenoir, this the 6th day of April, 2020.

(signature)