Rockingham County Unified Development Ordinance

AUGUST 16, 2021

AMENDED
June 19, 2023

UNIFIED DEVELOPMENT ORDINANCE

DEFINITIONS

Terms Defined

(a) Words contained in this appendix are those having a special meaning relative to the purposes of this chapter. Words not listed in this section shall be defined by reference to:
(1) Chapter 2 of the North Carolina State Building Code or, if not there, in
(2) Webster's Third New International Dictionary, unabridged.

(b) Words and terms not defined in this appendix but defined elsewhere in the unified development ordinance (UDO) shall be given the meanings in the UDO. Particular uses not defined shall have the meaning assigned in the article IV, division 1, table 41.04-1, use matrix and the NAICS Manual.

Words defined

Abandonment —The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut —Having property or district lines in common.

Abutting parcels —Parcels which are directly touching and have all or part common parcel boundaries. (Parcels across a public right-of-way shall not be considered abutting.)

Accessible —Having access to, but which first may require the removal of a panel, door or similar covering of the item described. See "Accessible, readily."

Accessible, readily —Having direct access without the need of removing any panel, door or similar covering of the item described, and without requiring the use of portable ladders, chairs, etc. See "Accessible."

Addition —An extension or increase in floor area or height of a building or structure.

Adequate erosion control measure, structure, or device —See Rockingham County Erosion Control Ordinance.

Adjacent property —All properties immediately contiguous to a development site, including those separated from the site only by a road or other right-of-way or easement.

Adjoining property —A parcel of land that shares all, part or point of a common lot line, with another parcel of land.

Administrative decision —Any decision on a development application made by the Community Development Director pursuant to this chapter.

Administrator —The Community Development Director of Rockingham County or their designee.

ADT —Average daily trips.

Adult care center —A provider furnishing a planned program that includes a variety of health, social and support services in a protective setting during daytime hours. This use is referred to as a "community-based service" and is designed to meet the individual needs of functionally and/or cognitively impaired adults.

Adult care home —(see Family Care Home) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to more than 6 residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. As distinguished from a nursing home, an "adult care home" provides residential care for aged or disabled persons whose principal need is a home with personal care related to their age or disability requirements. Medical care in an adult care home is usually occasional or

incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the division of facility services. Includes any "adult care home" as defined by G.S. 131D-2, G.S. 131D-20, G.S. 131E-76, G.S. 131E-101 (including any "combination home").

Adult uses —An establishment consisting of, including, or having the characteristics of any or all of the following:

(1) Adult bookstore —An establishment which has a substantial portion of its stock-in-trade in books, magazines, or other periodicals, and from which minors are excluded by reason of age.

(2) Adult cabaret —An establishment which features exotic dancers, strippers, male or female impersonators, or similar entertainments, and from which minors are excluded by reason of age.

(3) Adult drive-in theater —A drive-in theater for the showing of movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

(4) Adult massage parlor —An establishment in which body massages are offered as a service, and from which minors are excluded by reason of age.

(5) Adult mini-picture theater —An enclosed building, in whole or in part, with a capacity of 50 persons or less used for showing movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

(6) Adult picture theater—An enclosed building or portion thereof with a capacity of more than 50 persons used for showing movies, slide shows, closed-circuit television, or similar offerings, and from which minors are excluded by reason of age.

Affiliate —A person that directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

Affordable housing —Units sold or rented to families earning less than the county median income, as determined by the U.S. Department of Housing and Urban Development.

Agritourism —Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting. A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the department of revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of G.S. 160D-903 for a period of three years after the date the building or structure was originally classified as a bona fide purpose pursuant to the subsection shall subject the building or structure to applicable zoning and development regulation ordinances adopted by the county in effect on the date the property no longer meets the requirements of G.S. 160D-903(a)).

Airport and related uses —Any public or private airport including terminal buildings, towers, runways, and other facilities directly pertaining to the operation of the airport.

Airstrip —A private airplane or helicopter landing facility and taxi areas, which may be grass or paved, with any accessory building associated with the facility such as hangers or maintenance buildings.

Alcoholic beverages —Beverages containing more than 0.5 percent alcohol by volume.

Alley —Any public space or thoroughfare 20 feet or less wide, which has been dedicated or deeded for public use.

Alter or alteration —Any change or modification in construction or occupancy.

Amendment —An amendment to the unified development ordinance or a new unified development ordinance.
Amusement arcade —A primarily indoor structure, open to the public that contains coin-operated games, rides, shows, and similar entertainment facilities and devices.
Amusement park —A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.
Animal clinic —Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.
Animal hospital —See Animal clinic.
Animal husbandry —Keeping and raising of animals for non-commercial purposes, whether or not in association with a bona fide farm.
Animals, household —Animals which are customarily kept for personal use or enjoyment within the home, not exhibited to the public, or raised for commercial purposes. Animals which are dangerous to humans or property when they reach maturity or which have cloven or solid hooves are not household animals. The term "household animals" includes, but is not to be limited to, domestic dogs, domestic cats, birds, guinea pigs, hamsters, mice, rats, gerbils, ferrets, rabbits, small reptiles, small amphibians, and aquarium fish.
Animal shelter —A facility which is used to house or contain animals and which is owned, operated, or maintained by an incorporated, humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.
Appeal —A request for a review of the planning department's interpretation of any provisions of this chapter or a request for a determination that there is error in a decision made by the department pursuant to this chapter.
Aquaculture —The commercial cultivation of aquatic life, including fish, shellfish, and seaweed, for wholesale distribution to either a domestic or foreign market. Aquaculture does not include the cultivation of aquatic life for on-site fishing by the public.
Area, buildable —The portion of a lot remaining after required yards have been provided and any conservation or preservation areas, submerged lands, easements or road rights-of-way have been subtracted from the lot area.
Area, building —The area included within surrounding exterior walls, or exterior walls and firewalls, exclusive of courtyards. The area of a building or portion of a building without surrounding walls is the usable area under the horizontal projection of the roof or floor above.
Area, gross floor —The area within the inside perimeter of the exterior walls with no education for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky.
Area, net floor —The area actually occupied or intended to be occupied even though at any given time a portion of the floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features.
Art gallery —The use of a structure or building for the display of sculpture, painting, photographs, or other artistic works for public viewing with only incidental sales.
Assembly place —A place designed to accommodate an assembly of persons attending athletic events, musical performances, dramatic or dance performances, speeches or ceremonies, and other such entertainment events including, but not limited to, coliseums, athletic centers, concert halls, and auditoriums.
Assisted living residence —Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or

more licensed home care or hospice agencies. "Assisted living residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. There are three types of assisted living residences: adult care homes, group homes (for developmentally disabled adults), and multiunit assisted housing with services.

Auditorium —A room, hall, or building, that is part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "Places of public assembly."

Authorized agent —Any person with valid authority provided by the owner, as evidenced by a notarized document authorizing the agent to represent the owner, and acting on behalf of the owner of land seeking a development order or development permit approval.

Automobile repair, major —An establishment engaged in engine rebuilding or reconditioning of automobiles, the removal from any vehicle of a major portion such as the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

Automobile repair, minor —An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile repair, major."

Automobile sales establishment —An open area used for the display, sale or rental of new and/or used motor vehicles.

Average daily trips (ADT) —The number of trips a use generates on an average day.

Aviation easements —A document acknowledging airport proximity, limiting the height of structures and granting permission for the conditions arising from the over-flight of aircraft in connection with the operation of an airport.

Awning —An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid or retractable skeleton structure over which an approved cover is attached.

Bakery —The use of a structure or building for the production of bakery products, including but not limited to breads, cakes, pastries, and doughnuts. When identified in this chapter as a use under "retail," the bakery products produced are for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, are considered manufacturing.

Balcony, assembly room —That portion of the seating space of an assembly room, the lowest part of which is raised four feet or more above the level of the main floor.

Balcony (exterior) —An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports.

Bank —A financial institution engaged in deposit banking and closely related functions, such as the extension of credit by means of loans and investments and other financial activities.

Bar —Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use.

Base course —The layer of material that lies immediately below the wearing surface of a street pavement.

Basement —The lowest portion of a building having its floor subgrade (below ground level) on all sides.

Beacon —Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source, or any light with one or more beams that rotate or move.

Bed and breakfast inn —A business with guest rooms that offers bed and breakfast accommodations of less than two weeks, and that:

(1) Does not serve food or drink to the general public for pay;

(2) Serves only the breakfast meal, and that meal is served only to overnight guests of the business; and

(3) Includes the price of breakfast in the room rate; and is the permanent residence of the owner or the manager of the business.

Berm —A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks, which serves as a screen or buffer yard with landscaping.

Bicycle —A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 16 inches in diameter or having three wheels in contact with the ground any of which is more than 16 inches in diameter.

Bicycle facilities —A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

Bicycle lane—A portion of a roadway, which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

Bicycle path —A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

Block —A unit of land bounded by streets or a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Board —Unless otherwise indicated in the text, board refers to the applicable reviewing board.

Board of Adjustment —The Rockingham County Board of Adjustment.

Boarding house or rooming house —A building containing a single dwelling unit and four or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services or other things of value.

Boarding kennel —A facility or establishment, which offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats.

Body piercing —The intentional act of any person or persons of piercing any part of the body of another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body.

Bona fide farm —The production and activities relating or incidental to the production of crops, grains, fruits, vegetables, sod, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1, and as provided in G.S. 106-743.4 (enhanced voluntary agricultural districts) regarding the sale and production of nonfarm products recognized as "Goodness Grows in North Carolina" and subject to G.S. 160D-903). Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

(1) A farm sales tax exemption certificate issued by the department of revenue; or

(2) A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3, or

(3) A copy of the farm owner's or operator's schedule F from the owner's or operator's most recent federal income tax return, or

(4) A forest management plan.

Buffer yard —Open spaces, landscaped areas, fences, walls, berms, or any combination, used to physically separate or screen one use or property from another to visually shield or block noise, light, or other nuisances.

Buffer, external —A buffer yard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between development and adjacent land uses.

Buildable area —The portion of a lot remaining after required yards have been provided and any conservation or preservation areas, submerged lands, easements or road rights-of-way have been subtracted from the lot area.
Building —See "structure."
Building, accessory —See "structure, accessory."
Building code —The North Carolina State Building Code.
Building envelope —The three-dimensional space occupied by a building, including all eves, covered porches, breezeways and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.
Building facade —The exterior side of a building which faces, and is most nearly parallel to, a public or private street. The facade includes the entire building walls, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.
Building height —A vertical distance from the highest point of a building to grade, measured in accordance with this chapter.
Building line —A line determined by meeting the respective front, side and rear yard setbacks.
Building, mixed use —A building that contains dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed use buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses.
Building permit —An authorization to construct a structure as issued by the Rockingham County Building Inspections Department.
Building, principal —See Structure, principal.
Built-upon area —The portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. Water slated decks and the water area of a swimming pool are considered pervious.
Bulk —The size and shape of buildings, structures, and the physical relationship of their exterior walls to other buildings, structures, other walls or construction of the same building or structure, and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.
Business services —An establishment offering services to the business community and to individuals. Such services include, but are limited to, advertising agencies, blueprinting and photocopying services, cleaning and maintenance of building services, computer and data processing services, detective agencies and security services, insurance agencies, management consulting and public relations services, news syndicates, personnel services, photography, art and graphics services, and real estate services.
Campground —Land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreational vehicles, or cabins, for recreation, education or vacation purposes. A campground also includes a summer camp or other camping facilities consistent with this definition.
Camping unit —Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.
Campsite —Any plot of ground within a campground intended for the exclusive occupancy by a cabin, recreational vehicle, or tent.
Canopy —A protective cover over a door, entrance, window, or outdoor service area attached to or cantilevered from a building. Permanent marquees and porticoes designed as a continuous or integral part of the structure are not considered canopies.

Capacity —The maximum demand that can be accommodated by a public facility without exceeding the adopted level of service.
Capital improvement —A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the county's special district, or a private service provider.
Capital improvement, planned —A capital improvement designed for construction within a period not to exceed five years in a capital improvements program.
Capital improvements program —A plan setting forth by category of public facilities those capital improvements and that portion of their costs which are attributable to serving new development within, designated service areas for such public facilities over a period of specified years.
Car dealership —See "Automobile sales establishment."
Carport —A roofed structure attached or unattached to the principal structure providing space for the storage of one or more motor vehicles.
Carwash —An establishment engaged in the business of washing vehicles with self-serve, automated, or staffed facilities.
Cemetery, human public —Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries operated for profit. This definition does not include human cemeteries established or operated by churches or governmental agencies.
Cemetery, pet public —Land used or intended to be used for the burial of animals in individual burial plots or a mausoleum and dedicated for cemetery purposes.
Cemetery, private —Land used or intended to be used for the burial of the human dead and not operated for profit.
Centerline offset of adjacent intersections —The gap between the centerline of streets adjoining a common road from opposite or same sides.
Certificate of occupancy —A document issued by an authorized official setting forth that land, a building, or structure complies with the county building code, this chapter, and other pertinent local and state requirements, and that the land, building, or structure may be used for the purposes stated.
Certify —A certification, by an agency, licensed professional or official, of the existence of some fact or circumstance whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.
Change of use —A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building.
Channel —A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.
Child care center— A program or arrangement where more than six children who do not reside where the care is provided, receive care on a regular basis at least once a week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them be [by] birth, marriage, or adoption. Child care center does not include the following:

(1) Recreation programs operated for less than four consecutive months in a year;
(2) Public schools;
(3) Nonpublic schools that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility for less than six and one-half hours per day either on or off the school site;
(4) Bible schools conducted during school vacation periods;
(5) Care provided by facilities licensed pursuant to G.S. ch. 122C, art. 2; or
(6) Church facilities where the child care activities are located on the same campus or adjacent property.

College/university —A degree-granting establishment, accredited or qualified for accreditation by the Southern Association of Colleges and Schools, providing formal academic education and generally requiring for admission at least a high-school diploma or equivalent academic training, including colleges, community colleges, universities, technical institutes, seminaries, and professional schools. Accessory uses under this definition include, but are not limited to, dormitories, cafeterias, bookstores, libraries, classrooms, administrative offices, research facilities, sports arenas, and auditoriums.
Commercial Feeder Operation – A concentrated animal feeding facility where animals are confined and fed or maintained for a total of 45 days or more in any 12-month period; and crops, vegetation, forage growth, and post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility; and the operation is not part of an integrated farming operation. Two or more animal feeding operations under common ownership are deemed to be a single unit if they are adjacent to each other or if they utilize a common area or system for waste disposal.
Community center —The use of a structure or building by members of a community, as opposed to the general public, for social, cultural, or recreational purposes.
Conditional Zoning — A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. The Conditional Zoning districts correspond to general zoning districts. For example, a Conditional Zoning district that corresponds to Neighborhood Commercial (NC) has the designation NC-CD.
Conference/retreat/event center —A facility used for conferences, seminars, and events which may or may not offer accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.
Construction or demolition debris —Solid waste resulting solely from construction, remodeling, repair or demolition operations on buildings or other structures, but does not include inert, land-clearing or yard trash debris. Roofing shingles are construction or demolition debris.
Contractor's office —An establishment where materials kept on site are stored in buildings and which is engaged in the provision of construction activities including, but not limited to, plumbing, electrical work, building, paving, carpentry, and other such contracting activities.
Container, shipping/storage —A steel box manufactured for the purpose of transporting or storing goods, having a corrugated profile, covered from all sides with a door at the rear end of the container. It is mounted on a chassis while being transported by road, on a rake while being transported by rail and can also be loaded by a ship. Dismantled truck trailers or truck bed boxes, which were originally attached to a motorized vehicle, are not considered a shipping container but are considered junked motor vehicles.
Convenience store, with or without gas pumps —An establishment where gasoline or fuel may be supplied and dispensed at retail and/or convenience goods may be sold. No servicing or repair of vehicles is permitted.
Correctional facility —A public facility, other than a jail, for the housing of persons convicted of a crime.
Cottage business —An accessory use, subordinate to the primary residential use of the property, operated by persons residing in the principal building on the same parcel of land upon which the cottage business is located. Additionally, such use may be carried out in an accessory building on the same lot or on a lot adjacent to the principal dwelling owned by the same person. The cottage business constitutes, either entirely or partly, the livelihood of the person living in the dwelling unit.
Crematorium —An establishment for the burning of human or animal remains.
Cul-de-sac —See "street, cul-de-sac."
Cultural facility —The use of land, buildings, or structures to provide educational and informational services to the general public, including but not limited to aquariums, arboreta, botanical and zoological gardens, art galleries, museums, and libraries.
DBH —Diameter at breast height.
Dedicated public ROW —A right-of-way that has been dedicated to the public, but does not necessarily refer to construction status.

Department of transportation —North Carolina Department of Transportation (NCDOT).
Design manual —An illustrative guide with graphics, photos, drawings, concepts and illustrations to serve as a tool aiding in the interpretation of the technical sections of the UDO. It is not an official component of the UDO and may be amended through administrative action, from time to time, by the Community Development Director.
Development —Any manmade change to improved or unimproved real estate, such as construction or changes to structures, subdivisions, mining, dredging, filling, grading, paving, excavation, or drilling operations.
Development approval ---An administrative or quasi-judicial approval made pursuant to this ordinance written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.
Division of environment and natural resources —North Carolina Division of Environment and Natural Resources (NCDENR).
Dormitory —A building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, or other similar use.
Drinking establishment —An establishment where alcoholic beverages are served and consumed on the premises. If the facility also sells food and the sale of food products represents more than 50 percent of the facility's total sales, the facility is considered an eating establishment.
Drive-in theater —A facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.
Drive-in window —A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles to eliminate the need for customers to exit their vehicles.
Dry cleaners —An establishment engaged in providing laundry, dry cleaning, and other related services.
Dwelling — Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.
Dwelling accessory unit/guesthouse —A detached dwelling unit permitted on the same parcel as the principal dwelling unit, but clearly subordinate to the principal dwelling unit.
Dwelling, multifamily— A structure containing three or more dwelling units, including units that are located one over the other, patio homes, apartments, condominiums or townhouses.
Dwelling, single-family —A structure containing a single dwelling unit.
Dwelling, two-family —A structure containing two dwelling units. Two-family dwellings are also referred to as a duplex.
Dwelling unit —A single unit providing complete independent living facilities, for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
Electrical repair and electronic repair —An establishment engaged in the repair of electrically powered equipment or electronic equipment including, but not limited to, appliances, televisions, radios, noncommercial stereo equipment, computers, and similar equipment.
Electronic Gaming Operations – Any establishment deemed legal by the State of North Carolina, featuring one or more stand-alone electronic machines, including but not limited to computers, gaming terminals, tables and like that operate with or without gaming software to conduct or facilitate games of chance (skill-based or otherwise) where cash or other monetary payments, goods or certificates for services which are redeemable for cash or other monetary payments on or off premise and including

online redemptions whether or not the value of such distribution is determined by electronic games played or by predetermined odds.

Erosion —The wearing away of land surfaces by the action of wind, water, gravity, or any combination. See Rockingham County Soil Erosion and Sedimentation Control Ordinance.

Estate settlement —The conveyance of a lot or tract for the purpose of dividing lands among the tenants in common all of whom, by intestacy or by will, inherited the land from a common ancestor.

Family —Any number of people related by blood, marriage or adoption, or not more than five unrelated persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" does not include a fraternity or sorority, club, rooming house, institutional group or the like.

Family care home —An adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for two to six resident persons with disabilities.

Family child care home —A child care arrangement located in a residence where, at any one time, three to eight children receive care.

FEMA —Federal Emergency Management Agency.

Federal Emergency Management Agency (FEMA) —The United States Federal Emergency Management Agency.

Flea market, indoor —A market for the sale of new and secondhand articles and antiques housed in a structure permanently enclosed on all sides.

Flea market, outdoor —A market for the sale of new and secondhand articles and antiques sold in open structures, tents, and the like, not permanently enclosed.

Floodplain-related definitions —See article IV, division 3, section 429.

Floor area —The sum of enclosed areas on all floors of a building measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor area used for habitation, access and storage. Open roof terraces, patios, atriums, balconies and breezeways, and space devoted to service uses do not count towards the calculation of floor area.

Floor area ratio (FAR) —The ratio of permitted floor area to the gross land area of the lot. Calculation is as follows:

- A 1:3 gross floor area (FAR) means that one-third of the site is occupied with the building, and the other two-thirds of the site is open land. In other words, a one-acre lot (43,560 square feet) which allows for a FAR of 1:3 would permit a 14,520-square-foot building (43,560 divided by 3 = 14,520).

Fraternity or sorority house —A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college students who are affiliated with a social, honorary, or professional organization recognized by the college or university.

Frontage —The portion of the land that abuts a specified road and does not necessarily apply to the front yard or front setback.

Functionally dependent facility —An operation which is dependent for its operation on close proximity to water, including, but not limited to, port or docking facilities for loading and unloading of cargo or passengers, shipbuilding and repair or seafood processing. This term does not include long-term storage, manufacture, sales or service.

Funeral parlor —An establishment engaged in preparing human remains for burial and conducting funerals.

Furniture refinishing and repair —An establishment engaged in the stripping, cleaning, painting, staining, sealing, varnishing, or other refinishing of the wood or metal components of furniture or the replacement or repair of broken or missing portions of a piece of furniture.

Garage, private —A part of a building designed and used to contain vehicles in use in the principal structure.

Grade, highest adjacent —The highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.
Gross land area of lots —The gross land area of lots that is computed in the same manner as for planned development housing districts.
G.S. —North Carolina General Statutes.
Habitable space, accessory —A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.
Half street —A street that has partial dedication and construction that does not meet the minimum NCDOT street requirements.
Health practitioner's office —An establishment offering diagnostic and routine health care on an outpatient basis by licensed practitioners including, but not limited to, physicians, dentists, and chiropractors.
Height —The average vertical distance between the lowest finished grade of the structure and the highest point of the structure.
Hobby farm —The use of land for nonprofit agricultural activities.
Home improvement center—An establishment engaged in the retail sale of finished lumber, packaged roofing materials, doors, and other materials used by individuals or builders, with all materials stored and sold from a completely enclosed building with the exception of the lumber which may be stored in buildings with a roof and at least three sides.
Home occupation—An accessory use of a dwelling unit which constitutes, either entirely or partly, the livelihood of the person living in the dwelling unit.
Home care agency—A private or public organization which provides home care services.
Home health agency —A home care agency which is certified to receive Medicare and Medicaid reimbursement for providing nursing care, therapy, medical social services, and home health aide services on a part-time.
Hospice/palliative care facility —Any facility, other than a hospital or nursing home, specifically designed as a residence or home-like environment to provide terminally ill persons with personal and custodial care, including but not limited to board, lodging, counseling, medication, and individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, and ambulating.
Hospital —An institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient services, training facilities, central service facilities, emergency services, and staff offices.
Hotel and motel —A building or group of buildings containing lodging units intended primarily for rental or lease to transients by the day or week, and which often provide additional services such as restaurants, meeting rooms and recreation facilities.
Junk —Any scrap, waste, reclaimable material, or debris, whether stored or not, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, bailed, disposed, or other use or disposition.
Junkyard/salvage yard —Land used for the storage, keeping, handling, or display of junk or on which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more.
Kennel —Any lot or premises on which household animals are bred, boarded, trained or sold on a regular basis for commercial purposes.
Land based classification standards (LBCS) —The most current edition of classification standards prepared by the American Planning Association.
Land-clearing debris —Solid waste that is generated solely from land-clearing activities, such as stumps, trees, brush, grass or other naturally occurring vegetative material.

Landfill —Land used for the disposal of waste excluding hazardous waste. Landfills are classified into three different types based upon the type of wastes received at the landfill as follows:

(1) Beneficial fill landfill —Land used for the disposal of inert debris strictly limited to concrete, brick, concrete block, used asphalt pavement, uncontaminated soil, rock, or gravel. Construction and demolition debris or land-clearing debris are not beneficial fill material and cannot be placed in a beneficial fill landfill.

(2) Land-clearing and inert debris (LCID) landfill —A facility for the land disposal of land-clearing debris, brick, concrete block, uncontaminated soil, used asphalt pavement, gravel, rock, untreated and unpainted wood, or yard trash. The facility may not be used for the disposal of construction or demolition debris.

(3) Sanitary landfill —A facility used for the disposal of solid waste.

LBCS —Land based classification standards.

Library —A building in which literary, musical, artistic, or reference materials are kept for use but not generally for sale.

Liquor store —An establishment engaged in the retail sale of packaged alcoholic beverages for consumption off the premises.

Loading, off-street —Space located outside of any street right-of-way easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Lodging place —The use of land, structures, or buildings for the provision of lodging, such as but not limited to boardinghouses or rooming houses, camps, dormitories, and hotels/motels.

Lot —Land bounded by lines legally established for the purpose of property division. As used in this chapter, unless the context indicates otherwise, the term refers to a zoning lot. Lot includes the word "plot," "parcel," or "tract."

Lot frontage —A line that connects the intersection points of the two side lot lines with the right-of-way.

Lot line —A line that marks the boundary of a lot.

Lot line, interior —Any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot line, street —Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot is considered to be the street lot line.

Lot of record —A lot which is part of a subdivision, the plat of which has been recorded in the office of the register of deeds, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office, provided such lot was of a size which met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of zoning regulations in the area where the lot is located.

Lot width —The horizontal distance measured along a straight line connecting the points where the minimum front yard line meets the interior lot lines or, if on a corner, the other front yard line.

Lumberyard —An establishment engaged in the cutting, dressing, finishing and wholesale sale of lumber.

Manufactured home park related definitions — See article IV, division 4, section 447.01.

Manufactured home —A portable manufactured housing unit, over 40 feet in length and over eight feet in width, designed for transportation on its own chassis and placement on a temporary or permanent foundation. The term also includes a doublewide housing unit which is two or more portable manufactured housing units, over 40 feet in length and eight feet in width, designed for transportation on their own chassis, which connect on site for placement on a temporary or permanent foundation. Manufactured homes are classified into categories as follows:

(1) Class AA —Doublewide or multi-sectioned manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the County's appearance criteria as required in section 62.33.

(2) Class A —Singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards and also meet the county's appearance criteria as required in section 62.33.

(3) Class B —Singlewide manufactured housing units which meet U.S. Department of Housing and Urban Development manufactured home construction standards but do not meet the county's appearance criteria as required in section 62.33.

(4) Class C —Manufactured housing units which does not meet either the U.S. Department of Housing and Urban Development manufactured home construction standards or county appearance criteria as required in section 62.33.

Manufacturing, processing and assembling —The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power-driven machines and materials-handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is not a fixed structure or other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins, or liquors.

Marina —A facility for storing, servicing, fueling and selling of convenience foods or articles, berthing and securing of boats. It also allows retail sales of boats and campgrounds as permitted accessory uses.

Medical and dental laboratory —An establishment engaged in the testing and analysis of material for medical or dental services or for the patient on prescription of a health practitioner.

Membership organization —A membership establishment operated by a corporation or association of persons for activities including, but not limited to, business, professional, social, literary, political, educational, fraternal, charitable, or labor activities, which are not operated for profit or to render a service which is customarily conducted as a business.

Mining of earth products —Removal of one acre or more of sand, soil, peat, muck, clay, stone, shell or other similar material, for disposal off site.

Mini-warehouse —A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of goods belonging to the individual lessees of the stalls and accessible to the lessees through individual doors.

Mixed Use District – a conditional zoning district that may or may not involve a special use permit approved by the Board of Commissioners for development according planned criteria. Also called a *planned development*.

Modular home —A dwelling unit constructed and labeled in accordance with the standards set forth in the North Carolina State Building Code/IRC for one- and two-family dwellings and made up of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home is considered a single-family dwelling.

Motor vehicle repair, major —Any automotive repairs or servicing not listed under "motor vehicle repair, minor."

Motor vehicle repair, minor —Services are those that could typically be completed within one business day. May include sales of gasoline or convenience goods, such as beverages, packaged food or maps. Services may include the following:

(1) Sale and service of sparkplugs, batteries, and distributor and ignition system parts.

(2) Sales, service and repair of tires, but not recapping or regrooving.

(3) Replacement of mufflers, tailpipes, water hoses, fan belts, brake fluids, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like.

(4) Radiator cleaning, flushing, and fluid replacement.

(5) Greasing and lubrication.

(6) Providing and repairing fuel pumps, oil pumps, and lines.
(7) Minor adjustment and repair of carburetors.
(8) Emergency repair of wiring.
(9) Adjusting brakes and installing exchange brake shoes.
(10) Minor motor adjustment not involving removal of the head or crankcase and grinding valves.
(11) Wheel balancing.
(12) Battery recharging.
(13) Minor warranty maintenance and safety inspections.
(14) Other minor servicing of a similar intensity to those listed above.

Minor motor vehicle repair does not include major mechanical and body work; straightening of body parts; painting, welding, storage of automobiles not in operating condition; or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in minor vehicle repair establishments.

Museum —An establishment engaged in the procurement, care, study, and display of objects of historical, educational, or cultural value and interest.

NCDEQ —North Carolina Department of Environmental Quality.

NCDOT —North Carolina Department of Transportation.

New construction —Structures for which the start of construction commenced on or after the date of the adoption of this UDO.

Nonconforming manufactured home park —A park operating outside of a zoning district where manufactured home parks are permitted.

Nonconformity —Includes the following:

(1) Lots, uses of land, uses of structures, structures, or characteristics of uses, which were lawful before the effective date of the ordinance from which this chapter is derived or was amended, but which would be prohibited, regulated or restricted under the terms of this chapter. The following constitute types of nonconformities:

a. Lots;
b. Uses of land without structures;
c. Uses of structures;
d. Structures; and
e. Characteristics of use which were lawful when established, but would be prohibited, regulated or restricted by this chapter or a subsequent amendment.

(2) Nonconformity may also be created where lawful public taking or actions pursuant to a court order have the same effect as violations of this chapter, if undertaken privately.

North Carolina General Statutes (G.S.) —The formalized rules and laws adopted by the North Carolina legislature.

Nursing, convalescent, and extended care facility —Any facility that provides nursing services as defined in the statutes of North Carolina. The term "facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide nursing care, personal care, or custodial care for persons not related to the owner or manager by blood or marriage, who for reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill.

Nuisance —Anything harmful of offensive to the community or a member of it and for which a legal remedy exists, such as excessive traffic, noise, odor, dust.

Off-premises —Not located on the zoning lot with the principal use or structure.

Opaque —Not allowing light to pass through or the inability to see through the structure or vegetative screen.

Open storage —Materials, supplies, equipment, motorized vehicles awaiting major vehicle repair, non-motorized commercial vehicles and like items that are stored outside a building or in a building not closed on all sides. The following exclusions to the definitions of open storage include items or products displayed for retail sale.

Out parcel —A smaller lot created from a larger tract and is typically accessory to the anchor or principal structure(s) associated with the larger tract.

Outdoor seasonal sales —Temporary sales including, but not limited to, Christmas tree sales, pumpkin sales, plant sales, and firework sales. Outdoor seasonal sales do not include the sale of manufactured items, such as furniture, bedding, automobile parts or household goods.

Palliative care facility —See "Hospice/palliative care facility."

Parking, off-street —Space located outside of any street right-of-way or easement and designed to accommodate the parking of motorized domestic and commercial vehicles.

Person with a disability —A person with a temporary or permanent physical, emotional, or mental disability including, but not limited to, developmental disabilities, cerebral palsy, epilepsy, autism, hearing and sight impairment, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to themselves or others as defined in G.S. 122C-3(11).

Personal care services —The furnishing of services to residents including, but not limited to, individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing and ambulation; the supervision of self-administered medication. The term "personal care services" does not mean the provision of medical, nursing, dental or mental health services.

Personal services —An establishment that primarily provides services generally involving the care of a person or person's apparel including, but not limited to, barbershops, beauty salons, seamstress shops, dry cleaning, and laundry pickup facilities.

Plan, Concept Site —A site plan submitted to the planning board and board of commissioners, drawn to scale, prepared by a design professional, with enough detail to be considered for approval as part of a Conditional Zoning district or Planned Unit Development.

Plan, detailed site —A specific site plan submitted for approval by the Community Development Director. The detailed plan, prepared by a licensed professional, may evolve from a concept plan that has been approved through the:

(1) Legislative process by the board as a result of a rezoning action;

(2) Through the quasi-judicial process by the Board of Adjustment as a result of special use request; or

(3) An administrative approved plan, not requiring any board action.

Plan, plot —An eight-and-one-half-inch by 11-inch or eight-and-one-half-inch by 14-inch drawing, prepared to scale, providing sufficient "as built" details of the footprints of existing buildings, structures and appurtenances, along with any additions proposed, in order to consider the requests associated with variances and other improvements associated with a zoning authorization permit.

Planned unit development —Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations.

Planning board —The Rockingham County Planning Board.

Plat, final subdivision —See section 34.03.

Plat, preliminary subdivision —See section 34.02.

Plat, sketch subdivision —A map submitted to the subdivision review board, with enough detail to be considered for review and is a precursor to the preliminary subdivision plat. See section 34.02.

Porch —A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window area to wall area is less than 50 percent.

Practical or practicable —Can be done or is possible in practice. Does not include a financial hardship associated with the situation.

Procedures manual —A manual for residential and nonresidential development containing applications, plan requirements and plat certificates required for development review. This manual is intended as a reference guide and may be amended by the Community Development Director, from time to time, as an administrative function.

Professional services —An establishment containing practitioners of a calling or vocation in which knowledge of some department of science or learning is used in its application to the affairs of others. Such activities include, but are not limited to, accounting, auditing and bookkeeping services; architectural services; engineering and surveying services; interior design services; and legal services. Physicians and dentists are classified as health practitioners. See "Health practitioner's office."

Public service facility —A private for-profit entity utilizing land, buildings, or structures for a public purpose, such as a private package treatment plant, rail service, resource recovery facilities, and other similar public service structures.

Public use facility —The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, and public services directly to the general public, including police and fire stations, municipal buildings, water treatment plants, sewage treatment plants, community centers, communication towers, collocation devices, and any other public facility providing such services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials, and not including public cultural facilities or public service facilities.

Public utility facility —Electric transmission and distribution lines, gas and water pumping stations, transformer stations, but not including land used for storage of materials and maintenance of equipment.

Public water and sewer —Water or sewer provided by a municipal or county system. It does not include community water systems or package treatment facilities approved by the state.

Publishing and printing —An establishment primarily engaged in preparing, publishing and printing newspapers, periodicals, books, and pamphlets.

Quasi-judicial decision —A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

Radio and television studio —A facility for the production and broadcast of radio and television shows, including such things as offices, dressing rooms, broadcast and taping studios, file rooms, set storage and related installations, but not including radio and television transmitting and receiving facilities, as defined in this chapter.

Recreation services —Privately owned outdoor amusement facilities such as golf and country clubs, swimming and tennis clubs, equestrian centers, and marinas, not built as part of a residential development. The term also includes publicly owned and operated facilities, such as athletic fields, golf courses, tennis courts, swimming pools, parks, marinas, and similar uses not associated with a school.

Recreational uses, community —Parks and playgrounds, lakefront public access sites, community centers, recreation clubs such as Boys and Girls Clubs; golf clubs; swimming clubs; tennis clubs; country clubs; paddle, racquetball, handball courts. Community recreational uses associated with residential subdivisions are not included because they will be approved by the subdivision review board along with subdivision approval.

Recreational uses, private – Hunting and fishing activities, camping, and similar uses of open land that are not open to the general public.

Recreational fish lake or pond —A facility open to the public for fishing, whether or not a fee is paid to the owner or proprietor of the facility.

Recreational vehicle —A vehicular-type portable structure which can be towed, hauled, or driven and is primarily designed as temporary living accommodations for recreational, camping and travel use and includes but is not limited to travel trailers, motor homes, camping trailers, campers, auto truck, and recreational vans.

Rehabilitation center —An establishment engaged exclusively in the provision of outpatient services to correct, cure or assist an individual in adjusting to a physical disability. Such services include, but are not limited to, physical therapy, occupational therapy, speech therapy, audiology, radiology and respiratory therapy, but excluding therapy for mental illness, drug or alcohol dependency, or rehabilitation of criminals.

Rental and leasing of light equipment —An establishment engaged in the renting or leasing of equipment including, but not limited to, wedding supplies, party supplies, small appliances, hand tools, furniture, and like items.

Repair services —The use of land, structures, or buildings for the purposes of mending or restoring items after decay, damage, dilapidation, or partial destruction. Such services include, but are not limited to, motor vehicle repairs; bicycle repairs; electrical and electronic repairs; gunsmiths; locksmiths; reupholster services; furniture refinishing and repair; small motor repairs; and watch, clock, and jewelry repairs. Construction activities are not included in repair services.

Research activity —Research, development, and prototype testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.

Residential care facility —

(1) A care facility or home whether operated for profit or nonprofit, which provides, for a period exceeding 24 hours, housing, room services, and one or more personal care services to persons not related to the owner or operator by blood, marriage, or adoption and licensed, certified or approved by the state department of social services. The term "personal services," for the purpose of this definition, means services in addition to housing and food services which include but are not limited to personal assistance with bathing, dressing, ambulation, supervision of self administered medication, transportation, emotional security, and other related services. The term "personal service" does not include nursing or medical treatment.

(2) Such facilities contain congregate kitchen, dining and living areas only, with separate sleeping rooms. Further, such facilities are not used for those persons in need of a structured environment, as it is defined in this section.

Restaurant —An establishment whose principal business is the sale of food, frozen desserts, or beverages to the customer in a ready-to-consume state. The term also includes the following:

(1) Sit-down eating establishment —Where food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables.

(2) Walk-in/drive-in eating establishment —Where the customers receive, but do not consume, the food and/or beverages at a counter, bar, or from a drive-in window.

Retail —The use of land, buildings, or structures for the sale of merchandise to the consumer of the merchandise including, but not limited to, convenience goods, shopper's goods, bicycles, gas, liquor, lumber and other building materials, mail order pickup facilities, manufactured homes, motor vehicles, and sales of used merchandise.

Retail sales, convenience goods —Commercial establishments that generally service day-to-day commercial needs of a residential neighborhood including, but not limited to, convenience stores; tobacco shops; newsstands; bakeries; candy, nut and confectionery stores; delicatessens; dairy products; meat and seafood markets; produce markets; food stores with less than 10,000 square feet in floor area, and eating establishments.

Retail sales, shopper's goods —Commercial establishments that supply the more durable and permanent needs of a community including, but not limited to, apparel and footwear stores; appliance stores; art supplies stores; automotive supply stores; bookstores; stationery stores; camera and photography supplies stores; department stores; discount stores; drugstores; farm supplies stores; florists; and home furnishing stores; gift shops; gun and ammunition sales; hardware stores; hobby, toy

and crafts stores; jewelry stores; lawn and garden supply stores; novelty and souvenir shops; office equipment stores; optician and optical supplies stores; paint and wallpaper stores; pet shops; radio and television sales stores; sporting goods stores; trading stamp redemption stores; and variety stores.
Road, County Standard – A roadway serving up to five (5) lots, building sites or other divisions of land that meet standards set forth in Section 53.03.
Road, existing external —The existing NCDOT-maintained road used by the traveling public, which is not part of the internal road network of the subdivision at its initial approval. These roads may, but are not limited to, a NCDOT classification of major, minor, collector or arterial road.
Road, internal subdivision —The internal network of subdivision roads developed at the initial approval of a subdivision.
Road, private driveway —A drive serving between one (1) and three (3) lots, building sites or other divisions of land not intended for public ingress and egress.
Road, NCDOT standard — A public or private roadway intended to serve a resultant number of lots greater that (5) and built to NCDOT standards.
Roadside stand, commercial —The sale of any form of agricultural or horticultural products at a retail stand where the products were grown off-site.
Roadside stand, residential —The sale of any form of agricultural or horticultural products at a retail stand on the property where produced.
Road —See "Street."
ROW —Right-of-way.
School —A facility which complies with North Carolina state compulsory school attendance laws and provides a curriculum of elementary or secondary academic instruction.
Sea level —A reference or datum mark measuring land elevation using the level of the ocean between high and low tides.
Setback —The distance from the lot line to the point where a structure (either principal or accessory) may be constructed.
Shooting range —A facility open to the public or to members organizations where firearms are discharged at targets, whether or not a fee is paid to the owner or proprietor of the facility.
Sign definitions —See article V, division 6.
Skilled trade —A profession requiring special training.
Slaughterhouse —An establishment where animals are killed, butchered or prepared for further processing.
Solid waste —Garbage, rubbish, refuse or other discarded solid or semisolid material resulting from domestic, commercial, industrial, agricultural activities and governmental operations, excluding solids or dissolved materials in domestic sewage or other significant pollutants in water resources such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.
Solid waste landfill affiliated enterprise —Any enterprise which by virtue of its existence or operation will, pursuant to a contractual agreement with the county, do any of the following: assist the county in the operation of the Blackburn Solid Waste Landfill; use or recycle materials which would otherwise be directed to the Blackburn Solid Waste Landfill; use or market any byproduct of the Blackburn Solid Waste Landfill; provide raw materials such as soils or clays, necessary to operation of the Blackburn Solid Waste Landfill; otherwise aid in the operation of the Blackburn Solid Waste Landfill. The enterprise must be located within an area described by a circle, the radius of which is a straight line extending one mile from the approximate center of the Blackburn Solid Waste Landfill. An enterprise meets the requirements of this definition even though its principal activity or activities are not directly related to any of the above-listed landfill affiliated activities. Should the principal activity or activities of the enterprise be a prohibited use in any zoning district located within this chapter the above-described are, this section shall control, overriding the prohibition contained elsewhere within the zoning ordinance. Further, the expiration or

termination of the underlying contractual agreement by and between the enterprise and the county, or the closing of the Blackburn Solid Waste Landfill, does not then make the enterprise a nonconforming use.
Special use —A use which would not be appropriate generally or without special study throughout the zoning district but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety and general welfare.
Start of construction —The first placement of permanent construction of a structure, including a manufactured home, on a site, such as pouring of slabs or footings, 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, excavation for a basement, footings, piers, foundations, or the erection of temporary building forms.
State —State of North Carolina.
Street —A vehicular way, which may also serve, in part, as a way for pedestrian traffic whether called a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, alley, court, mall, or otherwise.
Street, cul-de-sac —A dead-end street, having the same entrance and exit, and requiring facilities for traffic to turn around.
Street, dedicated public right-of-way —A right-of-way that has been dedicated to public use, but does not necessarily refer to construction status.
Street jog —An intersection where one-half of the cross street is offset from the other half of the cross street so that the two halves do not lay in a straight line.
Street, local —A road which serves primarily to provide access to adjacent land, over relatively short distances.
Street, public —See "street, state" or "street, dedicated right-of-way."
Structural alteration —Any change, except for repair or replacement, in the supporting members of a structure, such as but not limited to bearing walls, columns, beams, or girders.
Structure —Anything constructed or erected which requires location on or within the ground or attachment to something having a fixed location on the ground including, but not limited to, principal and accessory buildings, manufactured homes, signs, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers, and cables. Containers/shipping containers are not structures.
Structure, accessory —A subordinate structure detached from, but located on, the same lot as the principal structure, the use of which is incidental and accessory to that 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.
Structure, principal —A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which the structure is located.
Subdivision —Includes all divisions of a tract or parcel into two or more lots, building sites, or other divisions for the purposes of sale or building development, whether immediate or future, and includes all divisions of land involving the dedication of a new street or a change in existing streets.
Subdivision classifications —See article III, division 4.
Subdivision, cluster —A subdivision design that allows lots to be smaller, based on density averaging, in a concentrated area in exchange for the preservation of natural features, environmentally sensitive areas and active or passive recreational open space.
Subdivision, conventional —A subdivision which meets the minimum lot size requirements.
Substantial improvement —Any repair, reconstruction, or improvement of a structure, within any 12-month period, where the cost equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or

not that alteration affects the external dimensions of the structure. The term does not include any improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Substantial progress or expenditures —Work toward completing required improvements for a development associated with a special use permit, preliminary subdivision, Conditional Zoning or special districts. This may include consulting fees from development specialists for the survey of the property, soil evaluation, erosion control plan, engineering design for roadway, waterlines, sewer lines, permit fees or fees associated with land preparation such as clearing, rough grading or fine grading.

Technical school —The use of land, structures, or buildings for the provision of training in various skills and may include, but is not limited to, business schools, trade schools, and vocational schools.

Temporary uses/special events —A use established for a limited duration with the intent to discontinue the use when the timeframe has expired. The temporary use/special events use includes, but not limited to, circus, carnival, fair, rodeo, team pinning, religious events, and special events by nonprofit organizations.

Tobacco Related Uses – Uses involving Tobacco Products and Tobacco Derived Products as defined in NCGS 14-313. These terms include tobacco-derived product, vapor product, or components of a vapor product that contains nicotine and is intended for human consumption, whether chewed, absorbed, dissolved, ingested, or by other means.

Use —The specific activity or function for which land, a building, or a structure is designated, arranged, occupied, or maintained.

Use, accessory —A use on the same lot as or in the same structure with and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.

Use, principal —The primary use and chief purpose of a lot or structure.

Used merchandise —An establishment engaged in the sale of previously owned goods, except the sale of used motor vehicles.

USGS —United States Geological Survey.

Utility, Major - Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

Utility, Minor -- infrastructure services that need to be located in or near the neighborhood or Use Type where the service is provided. Examples of Minor Utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops and park-and ride facilities.

Variance —A relaxation by the Board of Adjustment of the dimensional regulations of this chapter where such actions will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the actions or situation of the applicant to produce financial gain, a literal enforcement of this chapter would result in unnecessary and undue hardship.

Vicinity map —A drawing showing the general location of a parcel.

Warehouse —A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility or both, with access to contents only through management personnel.

Watershed-related definitions —See article IV, division 2, section 42.02.

Wholesale distribution —Establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers.

Winery/brewery— The use of land for activities involved with the processing/packaging of wine and beer and may include a tasting and retail sales area.

Wireless communications-related definitions —See article VI.

Wood waste grinding operation, industrial —A facility located in the L-I and G-I districts that receives primarily organic wastes to be treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon wood waste, nitrogen yard waste, and untreated and unpainted pallets or construction wood waste into mulch or fuel.
Wood waste grinding operation, temporary on-site —A facility where organic wastes are treated or processed for recycling or reuse in soil-plant related industries, including activities such as grinding or chipping land clearing debris, high carbon nitrogen and yard waste. The operation will be in existence for a period of six months or less. The materials that are processed must be from the location of the grinding site.
Yard, front —That portion of the lot located along the front projected line of the principal structure, extending from one side lot line to the other side lot line. The front yard contains the front setback area of the property.
Yard, rear —That portion of the lot located along the rear projected line of the principal structure, extending from one side lot line to the other side lot line. The rear yard contains the rear setback area of the property.
Yard, side —That portion of the lot located on both sides along the side projected line of the principal structure, extending from the front projected line of the principal structure to the rear projected line of the principal structure. The side yard includes a portion of the side setback area of the property.
Yard waste —Includes both yard trash and land-clearing debris, as defined in G.S. 130A-290, including stumps, limbs, leaves, grass and untreated wood.
Zoning authorization permit —A development approval issued for residential and nonresidential uses, prior to any land or structural improvements, stipulating conditions for compliance with this chapter as to design, use, activity, height, setbacks, density, site planning, special use and/or conditional district development.
Zoning compliance certificate —A document issued by the county after construction of nonresidential uses and residential uses, with the exception of single family dwellings, stating that the approved Detailed Site Plan was complied with and the property can be occupied and used for the purpose stated on the zoning authorization permit.
Zoning districts —Areas of land or water, whose boundaries are indicated on the official zoning atlas, within which all properties are regulated by the general regulations of this chapter and the specific regulations of the individual district.
Zoning lot —A lot shown on the application for a zoning authorization permit.
Zoo —A collection of living animals usually for public display.

ARTICLE I. - IN GENERAL

Purpose: This article provides an overview of this chapter, referred to as the Unified Development Ordinance (UDO). This article is the basis for the UDO, recites the ordinance policies, and establishes rules of interpretation for this chapter.

Sec. 10.01. - Title.

This Ordinance may be referred to and cited as the "Unified Development Ordinance."

Sec. 10.02. - Authority.

The articles contained within this chapter are enacted pursuant to G.S. 160D.

Sec. 10.03. - General purpose and intent.

(a) Zoning. The county is divided into zoning districts which establishes permitted uses, dimensional standards, and design standards.

The purposes of the zoning districts, in part, include:

(1) Implementation of the Rockingham County's Land Use Master Plan;
(2) Lessening congestion in the streets;
(3) Securing safety from fire, panic and other dangers;
(4) Promoting the health, safety and general welfare;
(5) Providing adequate light and air;
(6) Preventing the overcrowding of land;
(7) Avoiding undue concentration of population;
(8) Facilitating the adequate provision of transportation, water, sewer, schools, parks and other public infrastructure;
(9) Protecting the character of each district and its suitability for particular uses;
(10) Conserving the value of buildings;
(11) Encouraging the most appropriate use of land throughout the county; and
(12) Providing for orderly growth and development in future expansion areas of cities within the county.

(b) *Subdivision regulation.* The purposes of the subdivision regulations, in part, include:

(1) Providing for the orderly growth and development of the county;
(2) The coordination of streets and roads within proposed subdivisions with existing or planned streets and roads and with other public facilities;
(3) The distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare;
(5) The wise and timely development of areas, in harmony with the land development plan(s) and other official plans of the county; and
(6) Accurate public records of land ownership, to facilitate land ownership transfer, the effective conduct of public and private business and the protection of private property rights.

Sec. 10.04. - Applicability.

This chapter applies to all of Rockingham County outside the jurisdictions of the municipalities in the county. No development may occur unless all applicable regulations and standards established by this Ordinance are complied with and all permits or land use decisions have been approved as provided for in the Ordinance.

Sec. 10.05. - Bona fide farm exemption.

(a) In accordance with G.S. 160D-903, the UDO does not regulate bona fide farms.

(b) Definitions.

(1) *Bona fide farm.* The production and activities relating or incidental to the production of crops, grains, fruits, vegetables, sod, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1, and as provided in G.S. 106-743.4 (enhanced voluntary agricultural districts) regarding the sale and production of nonfarm products recognized as "Goodness

Grows in North Carolina" and subject to G.S. 106-743.2. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the department of revenue; or
b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3; or
c. A copy of the farm owner's or operator's schedule F from the owner's or operator's most recent federal income tax return; or
d. A forest management plan.

Sec. 10.06. - County public facilities.

County public facilities are a permitted use in all zoning districts; therefore, a special use permit is not required. County public facilities may include schools, fire departments, rescue squads, sheriff's offices, utility pump stations, communication towers, water towers and treatment plants, resource recovery sites, sanitary landfills, recycling centers, refuse transfer stations and other public facilities. The facilities must meet all other site improvements and permitting requirements as required in the UDO.

Sec. 10.07. - Consistency with adopted plans.

The Unified Development Ordinance is designed to implement the county's land use planning policies identified within the County's Comprehensive Land Use Plan and other land use plans adopted subsequent to the adoption of the UDO.

Sec. 10.08. - Coordination with other regulations.

(a) *Generally.* Where there are conflicts between the regulations in this chapter and other lawfully adopted regulations involved in such considerations, those which establish the highest requirements or most stringent limitations shall govern except where specific exceptions are set forth in the regulations. Any prior regulations on matters contained within this chapter are hereby abolished, and the regulations set forth in this chapter are controlling from the date of adoption as applicable.

(b) *Zoning.* Conflicts between the zoning provisions of this chapter and any other statute or local chapter or regulation shall be resolved as provided in the appropriate section of G.S. 160D.

Sec. 10.09. - Severability.

(a) If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(b) Any permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the county.

Sec. 10.10. - Rules of construction and location instructions for definitions and development standards.

(a) *Word usage.* In the interpretation of this chapter, the provisions and rules of this section shall be observed and applied, except when the context clearly require otherwise:

(1) The words "shall," "must" and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
(2) The words "may," "can," "should," "allow" or "encourage" are permissive in nature.
(3) Words used in the present tense include the future tense.
(4) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
(5) Words used in the masculine gender include the feminine gender.
(6) The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual.
(7) The word "county" shall refer to Rockingham County, North Carolina.
(8) The words "register of deeds" shall refer to the Rockingham County Register of Deeds.

(9) The specific controls the general.

(10) If there is any difference of meaning or implication between the text of this chapter and any title, illustration, summary table, or illustrative example, the text shall control.

(11) Unless the context clearly indicates the contrary, where a regulation involves two or more times, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

a. The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.

b. The term "or" indicates that one or several of connected items, conditions, provisions, or events shall apply.

(b) *General definitions.* General definitions pertaining to this chapter are located in the appendix.

Sec. 10.11. - 10.99. - Reserved.

ARTICLE II. - ADMINISTRATIVE AGENCIES

DIVISION 1. - ESTABLISHMENT OF ADMINISTRATIVE OFFICER

Sec. 21.01. - Community Development Director.

The Community Development Director, or her/his designee, shall administer this chapter. Wherever "Community Development Director" is mentioned within this chapter, her/his designee is included by definition and shall have the same authority as the Community Development Director. The Community Development Director shall also serve as the zoning administrator, watershed administrator, and floodplain administrator.

Sec. 21.02. - Community Development Director duties, powers, and limitations.

(a) The Community Development Director shall have the power to authorize minor subdivisions, grant zoning authorization and zoning compliance certificates and to make or cause to be made inspections of buildings or premises necessary to carry out the enforcement of this chapter. In connection with the enforcement of this ordinance, the Community Development Director shall make all necessary determinations and interpretations as required by the UDO.

(b) If any proposed excavation, construction, moving, alteration, or use of land as set forth in an application for a zoning authorization permit is in conformity with this chapter, the Community Development Director, shall issue a zoning authorization permit. However:

(1) Issuance of a zoning authorization permit shall in no case be construed as waiving any section of the UDO.

(2) Under no circumstance is the Community Development Director permitted to grant exceptions to the actual meaning of any clause, standard, or regulation contained in the UDO to any person making application to excavate, construct, move, alter, or use a building, a structure, or land.

(3) The Community Development Director shall issue a permit when the standards and/or conditions of the UDO are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements among private parties such as restrictive covenants.

(4) If an application for a permit is denied, the Community Development Director shall state in writing the reasons for the denial.

(5) The Community Director shall appoint a designee to serve as secretary to the Planning Board/Board of Adjustment.

Sec. 21.03. - Appeals of Community Development Director's actions.

All appeals of the Community Development Director's actions shall follow procedures in accordance with article III, section 33.06.

Sec. 21.04. - Conflicts of interest for Community Development Director's actions

(a) No staff member shall make a final decision on an administrative decision required by 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. Close familial relationship" as used in paragraph A above means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half and in-law relationships.

(b) 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 County Manager. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance 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.

Sec. 21.05. - 21.10. - Reserved

DIVISION 2. - PLANNING BOARD

Sec. 22.01. - Established.

There is established in and for the county a planning board that shall be known as the Rockingham County Planning Board. The members of the Planning Board may also serve as the Rockingham County Board of Adjustment at the direction of the Board of Commissioners.

Sec. 22.02. - Composition.

The planning board shall be composed of seven (7) members, and up to three alternates. To the extent possible, Board membership shall represent the local community in terms of demographics and geographic areas. These areas may be defined as townships, county zip codes, census tracts, or other suitable regions. A minimum of four board members shall have a residency period of at least five years in the county.

Sec. 22.03. - Appointment and Oath of Office.

a) The Board of County Commissioners shall appoint the members of the Board.
b) All members appointed to the planning board shall before entering their duties qualify by taking an oath of office as required by G.S. 160D-309

Sec. 22.04. - Terms.

The Board shall consist of seven (7) regular members appointed by the Commissioners for staggered three (3) year terms. The terms of no more than four (4) members shall be scheduled to expire in any one (1) year, except as necessary in order to properly stagger appointments. Board members shall serve a maximum of two (2) consecutive terms with a two- (2) year waiting period prior to reappointment to additional terms. Regular Board members that serve two (2) consecutive terms may be immediately appointed as alternate members, and shall become eligible for reappointment as regular Board members after the required waiting period. Unplanned vacancies occurring for reasons other than expiration of term shall be filled by order of the Commissioners for the period of the unexpired term or for such other periods as may be necessary to establish or re-establish membership and staggered terms.

As it deems sufficient to enable the Planning Board to conduct business without undue delay or difficulty, the Commissioners may also appoint alternate members to sit for hearings if a regular Board member is unavailable or disqualified on a temporary basis from serving. Such alternate members shall be appointed for one (1) three- (3) year term, and on completion of this term, shall become immediately eligible for appointment as regular Board members.

Sec. 22.05. - Filling vacancies.

If a vacancy occurs in the membership of the planning board, other than by expiration of a term, the vacancy shall be filled by appointment for the unexpired term.

Sec. 22.06. - Compensation.

The members of the planning board shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

Sec. 22.07. - Powers and Duties.

The Board shall have all of the powers and duties conferred by:

a) The General Statutes of North Carolina 160D-301, and all other applicable statutes adopted heretofore and hereafter by the General Assembly of North Carolina. All members of the Board shall thoroughly familiarize themselves with these statutes.
b) To prepare and recommend amendments to plans for the ongoing development of the unincorporated lands of Rockingham County.
c) To prepare and recommend ordinances to the Commissioners that promote beneficial and orderly development within the framework of the comprehensive Land Use Plan and UDO.
d) To consider proposed rezoning cases, proposed amendments to the text of the UDO, and changes to the official zoning districts map.
e) To keep the Commissioners and the general public informed as to the matters and proceedings of the Planning Board.

f) To keep and prepare minutes of proceedings of the board.
g) To perform any other duties that may be lawfully assigned.
h) To develop and maintain its governing bylaws in accordance with this section and the General Statutes of North Carolina160D-301.

Sec. 22.08. - Intergovernmental cooperation.

a) The Board shall work jointly with the Boards of each municipality located in the county in all matters wherein the respective municipality and the county have a joint interest in the physical development of the area.
b) The Board shall advise and make recommendations to the board of commissioners on all matters relating to the physical development of the county.

Sec. 22.09. - Conflict of Interest.

A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Nor shall member vote on a recommendation regarding a rezoning or text amendment, if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild."

Sec. 22.10. - 22.20. - Reserved.

DIVISION 3. - BOARD OF ADJUSTMENT

Sec. 23.01. - Established.

There is established the Rockingham County Board of Adjustment. The members of the Planning Board also serve as members of the Board of Adjustment at the direction of the Board of Commissioners.

Sec. 23.02. - Composition.

The Board shall be composed of seven (7) members, and up to three alternates. To the extent possible, Board membership shall represent the local community in terms of demographics and geographic areas. These areas may be defined as townships, county zip codes, census tracts, or other suitable regions. A minimum of four board members shall have a residency period of at least five years in the county.

Sec. 23.03. - Appointment.

a) The board of commissioners shall appoint the members of the Board of Adjustment.
b) All members appointed to the board of adjustment shall before entering their duties qualify by taking an oath of office as required by G.S. 160D-309

Sec. 23.04. - Terms.

The Board shall consist of seven (7) regular members appointed by the Commissioners for staggered three (3) year terms. The terms of no more than four (4) members shall be scheduled to expire in any one (1) year, except as necessary in order to properly stagger appointments. Board members shall serve a maximum of two (2) consecutive terms with a two- (2) year waiting period prior to reappointment to additional terms. Regular Board members that serve two (2) consecutive terms may be immediately appointed as alternate members, and shall become eligible for reappointment as regular Board members after the required waiting period. Unplanned vacancies occurring for reasons other than expiration of term shall be filled by order of the Commissioners for the period of the unexpired term or for such other periods as may be necessary to establish or re-establish membership and staggered terms.

As it deems sufficient to enable the Board to conduct business without undue delay or difficulty, the Commissioners may also appoint alternate members to sit for hearings if a regular Board member is unavailable or disqualified on a temporary basis from serving. Such alternate members shall be appointed for one (1) three- (3) year term, and on completion of this term, shall become immediately eligible for appointment as regular Board members.

Sec. 23.05. - Filling vacancies.

If a vacancy occurs in the membership of the Board of Adjustment, other than by expiration of a term, the vacancy shall be filled by appointment for the unexpired term.

Sec. 23.06. - Compensation.

The members of the Board of Adjustment shall receive compensation for their services as may be fixed from time to time by the board of commissioners.

Sec. 23.07. - Powers and Duties.

a) Pursuant to state law, the Board of Adjustment has the power to:

(1) Hear and decide appeals from and review any order, requirement, decision, or determination made by the Community Development Director in the performance of his duties as the order, requirement, decision, or determination relates to this chapter.

(2) Hear and decide applications for the approval of special uses requiring board approval.

(3) Hear and decide applications for variances. No variance approval issued by the board shall permit a use in a district where that use is neither a permitted use nor a permissible special use.

(4) Hear and decide any other matters as may be required by the UDO.

(5) Make interpretations of the meaning and intent of the UDO.

(6) To keep and prepare minutes of proceedings of the board.

b) To develop and maintain its governing bylaws in accordance with this section and the General Statutes of North Carolina, NCGS § 160D.

Sec. 23.08 - Conflict of Interest

A Board of Adjustment member when exercising any quasi-judicial function 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.

"Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild, the step, half and in-law relationships.

Sec. 23.09. - 23.17. - Reserved.

DIVISION 4. - TECHNICAL REVIEW COMMITTEE

Sec. 24.01. - Established.

There is established the Rockingham County Technical Review Committee (TRC).

Sec. 24.02. - Composition and Vacancies.

The TRC shall be composed of one member each from the Planning Department, Environmental Health Department, Soil and Water Conservation, Emergency Services/Fire Marshall's Office, GIS Department, Rockingham County Schools, the Planning Board, the County Director of Engineering and Public Utilities, NC DOT District Engineer, the Economic Development Director, a member of NC Department of Environmental Quality (DEQ), and a third-party licensed surveyor. These members shall be appointed by the Board of County Commissioners and shall before entering their duties qualify by taking an oath of office as required by G.S. 160D-309

The Community Development Director or his/her designee shall forward a list of nominees recommended for appointment to the TRC to the Board of County Commissioners for approval as vacancies occur. Board of Commissioners may appoint up to two members to serve a position on a rotating basis upon request.

A representative of all utilities (e.g., electric, gas, water, and cable) are encouraged to send representatives to participate in the meetings as Ad Hoc members. Each utility company is responsible for filling its vacancy on the TRC. The length of service for each member is not limited.

Sec. 24.03. - Duties.

TRC duties include:

a) Reviewing proposed major subdivisions for compliance with Rockingham County's UDO and other applicable regulations;
b) Identifying any nonconforming features of the proposal, and whenever feasible, suggest modifications to correct nonconforming features;
c) Approving, approving with conditions, or disapproving with reasons all major subdivision sketch plans, preliminary plats and final plats required or allowed for TRC review;
d) Making recommendations concerning an individual subdivision plat before it is approved;
e) Authorizing the issuance of performance bonds, letters of credit, or other guarantees for required improvements;
f) Approving waivers of the subdivision ordinance;
g) Site plan review for Conditional District Rezonings and other site plans as deemed necessary by the Community Development Director;
h) To keep and prepare minutes of the committee, and
i) Performing any other duties which may be lawfully assigned.

All regular and special meetings of the TRC shall be held in accordance with G.S. Chapter 143 Article 33C, commonly referred to as the North Carolina Open Meeting Law. All records, files, and accounts shall be public records, except as provided in the North Carolina General Statutes and by law. Copies of the agenda will be available at any time after preparation of the agenda.

Sec. 24.04. - Conflict of Interest

(a) No TRC committee member shall make a final decision on an administrative decision required by 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. Close familial relationship" as used in paragraph A above means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half and in-law relationships.

(b) If a TRC 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 County Manager. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance 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.

Sec. 24.05. - Appeals process for TRC decisions.

Any decision of TRC made in regard to the UDO may be appealed by the applicant, in writing, to the Board of Adjustment within 30 days following the date of the decision. The written appeal must be filed with the recording secretary of the Board of Adjustment. If a written appeal is not made within the 30-day period, the matter shall be deemed closed, and the decision of the TRC shall be final. When a decision of the TRC is overruled or reversed, the Staff shall make available to the TRC, at its next regular meeting, the findings, conclusions, and/or decisions of the appeal.

Sec. 24.06. - 24.20. - Reserved.

DIVISION 5. – BOARD OF COUNTY COMMISSIONERS

Sec. 25.01 - Authority and Duties

The Board of County Commissioners shall hold the following powers and duties related to this Ordinance:

(a) To review, hold public hearings, and make decisions for Text Amendments and Map Amendments
(b) To make decisions on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Plan, and other land use plans which may be adopted from time to time.

(c) The duties of the Board of County Commissioners in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be performed by the Board of Adjustment.

Minutes and records of Board of County Commissioners decisions shall be maintained.

Sec. 25.02 - Conflict of Interest

A County Commissioner shall not vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. The Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. A "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild.

ARTICLE III. - PROCEDURES

DIVISION 1. - GENERALLY

Purpose: This article establishes the application, notice, hearing and review procedures for all types of land use actions, such as rezonings and zoning authorization.

Sec. 31.01. - General procedural requirements.

(a) The procedures for all applications have the following common elements:

(1) Submittal of a complete application, which includes the required fee payment as well as all necessary information;

(2) Review of the completed application and required plans by appropriate staff and boards;

(3) Action to approve, approve with conditions, or deny the application; and

(4) If approved, issuance of an appropriate permit or authorization.

(b) *Pre-application conference.* The applicant should meet with the Community Development Director to discuss the nature of the proposed application, application compatibility with current adopted plans and policy, application submittal requirements, the procedure for action, and the standards for evaluation of the application. While not mandatory, this process can be extremely helpful to the applicant in expediting the application process.

(c) *Eligible applicants*. Only applicants who own a subject property or have a contract to purchase a property or their agent may make applications for any permit other than a building permit meeting the requirements of the NC Building Code.

Sec. 31.02. - Concept Site Plan.

(a) A Concept Site Plan must be submitted to the applicable board for a Conditional Zoning district or a Planned Unit Development (PUD). Any or all of the following aspects of the site plan may be required at the discretion of the Community Development Director, designee or applicable board(s).

(b) The Concept Site Plan should depict internal relationships between or among uses and activities proposed and their supporting systems and facilities, and relation to surrounding uses, activities, systems, and facilities.

(c) Concept Site Plans should include data reasonably necessary for the appropriate approval authority to determine whether the proposed development meets the general requirements, limitations, and intent for a Conditional Zoning or PUD with supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that in addition to all predetermined ordinance requirements, will govern the development and use of the property. Concept Site Plans shall include at a minimum:

(1) A vicinity map showing the property's general location in relation to major streets, railroads, waterways and the location of any voluntary agricultural districts located within one mile of the proposed project area.

(2) A drawing of the parcel, including the parcel identification number.

(3) All existing easement, reservations, and rights-of-way on the property(ies) in question.

(4) Existing and proposed topography at five-foot contour intervals or less.

(5) The proposed phasing of the project.

(6) Delineated areas where particular types of development, groups of buildings, and green space, such as active and passive parks, greenways, and conserved areas, will be located. Proposed density or intensity of use for each area must be indicated by proposed limits in the number of dwelling units, size and height of structures, and area in parking.

(7) Access to the development and internal circulation including roadway network and types and parking for vehicular and pedestrian access through the development adjacent development types and uses.

(8) Land features and geography that would be impacted by the proposed development including floodplain, watershed designation, streams, ponds, and any other hydrological features

(9) proposed method of utility provision and stormwater measures.
(10) Concept Site Plan review is required before any type of land disturbing activity may begin.

(d) Upon approval of the Concept Site Plan by the appropriate approval authority, a Detailed Site Plan and/or subdivision must be submitted for a zoning authorization to be administratively approved.

(e) Changes in approved Concept Site Plans.

(1) The Community Development Director may approve minor changes to Concept Site Plans, as long as they are in harmony with the action of the approval authority and provided that:

a. All applicable regulations in effect at the time of the establishment of the district are met; or

b. All applicable regulations currently in effect are met.

Minor changes are those changes that do not significantly change the character or size of the development from the original approval. In determining if a change is minor, the Community Development Director shall consider changes of more than 10% to any of the elements of the original site plan as measured by area, size, height, use and intensity.

(2) An amendment to the Concept Site Plan requires approval by the appropriate authority and shall be handled as a new application.

a. The Community Development Director will use the following criteria in determining whether a proposed change is an amendment. An amendment is required unless modifications to the originally approved site plan represent more than a 10% change in use and intensity, building size and type, parking and circulation, or the arrangement of delineated areas.

b. If the Community Development Director determines that the proposed action is an amendment, the applicant shall be required to file a request for approval of the amendment, which shall follow the procedures for the original request.

Sec. 31.03. - Phasing.

A development or subdivision may be constructed in phases, provided that:

(a) A phasing plan shall be submitted showing any proposed phases of development; and

(b) The degree and extent of road construction, water supply, sewage disposal, landscaping, parking, stormwater management, erosion and sedimentation control and other required improvements in the current phase, and previously approved phases, must be sufficient to serve or handle all development within the current phase.

(c) In lieu of providing the improvements noted in subsection (b) above, the applicant may post a performance guarantee as provided for in section 36.02.

(d) For subdivisions: A subdivision phase must contain at least three lots.

(e) Any phasing extensions or expirations are subject to requirements of section 35.01.

Sec. 31.04. - Completeness review.

(a) *Generally.* The Community Development Director shall review any application required by the UDO for completeness. An application shall be determined complete when it is conforms to all requirements and filing fees have been paid. Application materials are available in the planning department.

(b) *Time periods.* Whenever this article establishes a time period for processing an application, such time period shall not commence until the Community Development Director has reviewed such application for completeness in order to determine whether the application has been properly submitted and the applicant has corrected all deficiencies in the application. Review for completeness is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether the application complies with the provisions of the UDO.

(c) *Scheduling of review board consideration.*

(1) A complete application must be submitted a minimum of 30 days prior to the regularly scheduled meeting of the applicable board where the request is considered, except that applications for decisions by the Technical Review Committee must be submitted a minimum of two weeks prior to their regularly scheduled meeting.
(2) If the application is determined not to be complete, the Community Development Director will specify those parts of the application that are incomplete and indicate the manner in which they can be made complete. The applicant will be furnished with a list and thorough description of the specific information needed to submit a complete application.
(3) Upon receipt of any missing materials or required fee, a new period of up to 30 days may begin.

(d) *Effect of completeness determination.* The applicant must submit all information as specified in the UDO. The department or the reviewing agency may, in the course of processing the application, request the applicant to clarify or correct the information required for the application. The Community Development Director may waive application requirements that are unnecessary or impractical due to the type of use or scale of the proposal.

(e) *Appeal of Community Development Director's decision regarding completeness review.*
(1) Any decision of the Community Development Director pertaining to completeness review may be appealed to the Board of Adjustment, including completeness appeals of Detailed Site Plans, zoning authorization permits, zoning compliance certificates, zoning amendments, conditional districts, special use permits, variances and nonconformities, and subdivision sketch and preliminary plat applications.
(3) If the application, together with the required materials and fees, is determined not to be complete, the applicant may appeal that decision in writing to the appellate board. The appellate board shall render a final written determination on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. If the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this ordinance.

Sec. 31.05. - Permit Choice.

If a UDO regulation or State or federal regulation is amended between the time of permit application submission with fee and a decision on the request, the applicant may choose which UDO or State or federal regulation to utilize for the approval criteria pursuant to G.S. 160D-108(b) and G.S. 143-755.

Sec. 31.06. - Application Approvals Run with the Land

Regardless of administrative, planning board, board of adjustment or governing board decision all development approvals run with the land pursuant to G.S. 160D-104

Sec. 31.07. - Fees.

No application, subject to the UDO, shall be accepted unless it is accompanied by all required fees established by the Board of County Commissioners. Before any zoning authorization permit or zoning compliance certificate can be issued covering building or other operations regulated by the UDO, the applicant must pay a fee in an amount fixed by the board of commissioners.

Sec. 31.08. - 31.15. - Reserved.

DIVISION 2. - ZONING AUTHORIZATION AND CONFORMANCE

Sec. 32.01. - Generally.

Purpose: This section prescribes procedures for zoning authorization permits and conformance approvals. This section applies to any permitting action subsequent to approval of any Detailed Site Plan as set forth in section 31.02.

Administrative permits and certificates include:

(a) Zoning authorization permits, section 32.03; and

(b) Zoning conformance approvals, section 32.04.

Sec. 32.02. - Site plan—Detailed.

Purpose: Detailed Site Plans are required for any non-residential development, residential duplexes or multifamily developments after zoning approval, but before a zoning permit can be issued. Approval of a Detailed Site Plan is a one-step process requiring approval by the Community Development Director, although, depending the scale and complexity of the project, may request a review by the Technical Review Committee.

(a) *Detailed Site Plan approval.* Detailed Site Plans shall be administratively approved for the following:

(1) Any nonresidential, duplex or multifamily application for a zoning authorization permit.

(2) Any supplemental use regulations as required in article VI and that is permitted by right in the applicable zoning district; or

(3) A Concept Site Plan previously approved by legislative or quasi-judicial board action.

(b) *Procedures for administrative detailed site approval.*

(1) The applicant is encouraged to attend an informal pre-application meeting with the Community Development Director before filing a Detailed Site Plan application.

(2) An application for Detailed Site Plan approval must be filed with the Community Development Director.

(3) Completeness review. *See section 32.04*.

(4) On receipt of the Detailed Site Plan application, the Community Development Director shall review the application and notify the applicant in writing of any discrepancies between the Detailed Site Plan and the requirements of this chapter. The notification may include any suggested minor changes and conditions needed to achieve compliance with this chapter without constituting an amendment requiring further board action. If necessary, the applicant must submit a revised Detailed Site Plan to the Community Development Director. The Community Development Director shall approve, approve with conditions, or disapprove the Detailed Site Plan.

(c) Contents of Detailed Site Plan

The contents of a Concept Site Plan plus:

(1) All existing easement, reservations, and rights-of-way on the property(ies) in question.

(2) Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps for Rockingham County, delineation of watershed boundaries labeled with their respective classifications, and streams, ponds, and any other hydrological features.

(3) Existing and proposed topography at five-foot contour intervals or less.

(4) For residential uses, each building type and number of units. For nonresidential uses, the approximate square footage of each structure and building elevations with materials annotations.

(5) Detailed traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimension and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.

(6) All proposed setbacks, buffers, screening and landscaping required by the UDO and regulations of other agencies or otherwise proposed by the petitioner. In addition, the location of significant trees or tree stands on the subject property must be identified.

(7) The proposed number, location, type and size of all signs. This must include a sample diagram of the sign design.

(8) *Dedication or reservation of right-of-way.*

(a) Right-of-way dedication is required for all Conditional Zoning districts fronting along roadways funded for improvements in the current State Transportation Improvement Program (STIP) and must be indicated on any subdivision plat, site plan, or zoning authorization permit applications.

(b) The building setback would include the required setback plus half the estimated right-of-way needed for future road improvements.

Sec. 32.03. - Zoning authorization.

(a) *Applicability.*

(1) A zoning permit is required for all residential and nonresidential development regulated under this ordinance, including developments approved by legislative or quasi-judicial board action.

(2) No new development activity, change of use or extension of existing uses shall occur until all permits applicable to the proposed development are issued.

(3) A zoning permit is required prior to beginning excavation, construction, moving, or alteration except ordinary repairs. Repairs or alterations within a flood plain are subject to a zoning authorization permit .

(b) *Criteria.*

(1) All zoning permit applications must be made in writing to the Community Development Director. The Community Development Director will keep a record of all applications on file.

(2) An application for a single-family residential zoning authorization permit for construction, moving, alteration, or change in type of use must include a plot plan showing the following in sufficient detail to enable the Community Development Director to ascertain whether the proposed work or use is in conformance with this chapter: Any of the following details may be required:

a. The shape, location, and dimensions of the lot, or if the lot is not a lot of record, sufficient data must be provided to detail that the lot is a legally approved lot; and

b. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any other buildings or other structures already on the lot; and

c. The existing and intended use of the lot and all structures upon it; and

d. Other information concerning the lot, adjoining lots, or other matters to determine conformance with this chapter. The zoning authorization permit must include necessary information for the Community Development Director to make a determination that the plans are in conformance with this chapter.

(3) When two or more lots are proposed for one zoning authorization permit, a recorded deed must be submitted combining the lots into a single lot.

(4) A zoning authorization permit must precede building permit(s) approval.

(c) *Issuance.*

(1) The Community Development Director shall consult with applicable agencies, including but not limited to, the county public works department, the county division of environmental health, NCDOT, and NC DEQ.

(2) The Community Development Director shall not issue a zoning permit unless a determination is made that all plans, specifications, and the intended use of the structures and land subject to the application conform in all respects to this chapter.

(d) *Administrative decisions.*

(1) Administrative decisions are routine, non-discretionary matters carried out by the staff according to the provisions of the zoning ordinance and other regulations, including issuance of permits

The community development department is an administrative agency following the literal provisions of this ordinance.

(2) The planning department may engage in fact finding, (for example, as in making an initial determination as to whether a nonconforming use was in existence at the time a zoning provision was adopted). This involves determining objective facts that do not involve an element of discretion.

(3) In contrast to quasi-judicial hearings, administrative decisions are made without a hearing. Staff members review an application to determine if it is complete and conforms to objective standards set forth in this chapter.

(e) *Expiration.* Zoning authorization permits expire six months from the date of issuance unless a valid building permit has been issued for the work authorized by the zoning authorization permit. When a building permit expires, the zoning authorization permit shall also automatically expire.

Sec. 32.04. - Zoning Conformance Approval.

No building, structure, or zoning lot for which a zoning authorization permit has been issued, with exception of a single-family dwelling, can be used or occupied until the Community Development Director has issued a zoning approval. The Community Development Director may conduct a final inspection before issuing the zoning approval to determine that all required improvements have been installed in conformance with the Detailed Site Plan and zoning authorization permit or a performance guarantee has been approved as detailed in section 36.02. The approval shall indicate that the building, structure or lot complies with the zoning authorization permit and any applicable sections of the UDO. The issuance of a zoning compliance certificate does not waive any sections of this chapter.

Sec. 32.05. - Revocation of permit or approval.

(a) *Applicability.* Where a violation of this chapter involves a failure to comply with approved plans or conditions to which the approval was made subject, the Community Development Director may, upon notice to the applicant and other known parties of interest (including any holders of building permits affected), revoke the permit or approval.

(b) *Grounds for revocation.* The following are grounds for revocation of a permit or approval:

(1) The applicant intentionally supplies misleading information. The provision of misleading information is considered "intentional" when the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence.

(2) The failure to comply with specific conditions of a development order or development permit.

(3) Any permit or approval mistakenly issued in violation of an applicable state or local law may be revoked.

(c) *Decision and notice.* The Community Development Director shall render a decision to revoke the permit or approval, to allow the applicant to retain the development permit or approval, or to reconsider the permit or approval. The Community Development Director shall notify the holder of the permit or approval in writing and in the manner provided in G.S. 160D-403, which shall follow the same process as was used for the approval If the department finds that any portion of this chapter is being violated, it shall notify the responsible owner, tenant, or authorized agent (the initial written notice may be the final notice) requesting correction of the violation within ten days of the date of receipt of the notice by one or more of the following methods:

(1) *Certified mail.* When service of notice is refused or unclaimed notice may be sent by regular mail. Service will be deemed complete if the registered or certified mail is delivered, unclaimed or refused, and the regular mail is not returned by the post office within ten days after the date mailed.

(2) *Personal service.* Such service will be accomplished by delivering the notice to the responsible owner, tenant, or their authorized agent at their dwelling house or usual place of abode or to their business address and leaving it with the responsible party or some person of suitable age and discretion abiding therein.

(4) *Electronic.* Notice may be provided in electronic form if it can be protected from further editing pursuant to G.S. 160D-403(a).

(d) *Cumulative right.* The right to revoke a permit or approval, as provided in this section, will be cumulative to any other remedy allowed by law.

(e) *Appeal of revocation or permit or approval.* Pursuant to G.S. 160D-405, the landowner has the right to file an appeal. The process will follow the procedure outlined in Sec. 33.06. Appeals must be filed within 30 days of receipt of notice of revocation. If revocation notice is submitted by mail, three (3) additional days shall be allowed for filing of an appeal.

Sec. 32.06. - 32.20. - Reserved.

DIVISION 3. - ZONING PROCEDURES

Sec. 33.01. - Public hearing and public meeting procedures.

(a) *Scope of action.* The reviewing board may take any action on the application that is consistent with the public notice given, including recommendation of approval of the application, approval of the application, conditional approval or denial and pursuant to G.S. 160D – 601 and 602.

(b) *Record of proceedings*. The board conducting the meeting or hearing will record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with G.S. ch. 132.

(c) *Notice provisions.*

(1) *Notice of public hearing or meeting*. Notice of public meeting or hearing will state the time and place of the public hearing, summarize the nature of the application and proposed development and invite interested parties to review the application at the planning department. Notice of public hearing will also invite interested parties to submit oral or written comments on the application at the public hearing. Notice will be provided as follows:

a. *Published notice for public hearings.* An advertisement will be placed in a local newspaper of general circulation once a week for two successive calendar weeks. The first notice will be published not less than ten (10) days nor more than 25 days before the date fixed for public hearing; and

b. *Mailed notice (public meetings and hearings).* Notice shall be made by first class mail to all property owners property owners within 1000 feet of the subject property, as indicated by the latest county tax listing of property ownership, which includes any neighboring property separated by a street, railroad or other transportation corridor. This notice must be placed in the mail at least ten (10) but not more than 25 days prior to the date of the public hearing. Certification of the date of mailed notices shall be kept on file and made available to the governing board and other parties.

(2) *Major rezoning.*

a. For zoning map amendments directly affecting more than 50 properties owned by at least 50 different property owners, the county may elect to send mailed notices as provided in subsection (c)(1)b. above or the county may, as an alternative, elect to publish notice of the hearing as described in subsection (c)(1)a. above, provided that each advertisement must be at least half of a newspaper page in size;

b. The newspaper advertisement is effective notice only for those property owners who reside in the area of general circulation of the newspaper which publishes the notice; and

c. 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, must be provided with mailed notice.

(3) *Posted notice.* A sign noticing the public hearing shall be prominently posted on the property subject to the application or adjacent public road right of way at least ten (10) days but not more than 25 days prior to the public hearing at which the application will be reviewed and remain up until the hearing. The sign must be posted on the property at a point visible from the nearest public street. In the case of multiple parcels, sufficient signage must be posted to provide reasonable notice to interested parties.

(4) *Minor defect in notice.* Minor defects in notice will not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with the applicable notice requirements.

(5) *Administrative permits.* No notice will be required for an administrative permit issued pursuant to this chapter unless otherwise provided for by law.

(d) *Minor changes.*

(1) *Applicability.*

a. After notice or completion of a public hearing, the Community Development Director may allow minor changes to the application subject to the following:
    1. Proposes fewer dwelling units, reduced floor area or decreases impervious surface than requested on the original application;
    2. Reduces the impact of the development; or
    3. Reduces the amount of land involved from that indicated in the notices of the hearing.
b. This subsection does not apply if the regulations, specific standards, conditions for approval of the rezoning or findings of fact applicable to the specific permit prohibit minor changes.

(2) *Prohibition.* Unless the applicant re-initiates the application for the permit or development and a new notice is posted, the reviewing agency will not permit any of the following:
a. An apparent change of the overall character of the project;
b. A density or intensity increase of over ten percent;
c. A use falling in a different general use category;
d. A larger land area than indicated in the original application; or
e. A greater variance than was indicated in the notice.

Sec. 33.02. - Zoning map and text amendments.

Purpose: This section establishes procedures for processing zoning map amendments, rezonings and zoning text amendments.

(a) *Applicability.* This section applies to any application to:
(1) Amend the official zoning map (a "rezoning"), or
(2) Change the regulations of this chapter (a "text amendment").

(b) *Initiation.* A zoning map or text amendment may be initiated by the following:
(1) The Board of County Commissioners;
(2) The Planning Board;
(3) An application by a property owner or authorized applicant; or
(4) The Community Development Director.

(c) *Application.* The procedure for filing for an amendment to the UDO is as follows:
(1) *Filing of applications.* All applications for amendments to this chapter must be made in writing, signed, and filed with the Community Development Director. In most cases, standard forms will be provided for the application. All signatures must be notarized unless witnessed by staff.
(2) *Contents of application.* All applicants for amendments to this chapter, must complete an application containing a minimum of the following:
a. If the proposed amendment would require a change in the official zoning map to change only a portion of an existing parcel, a fully dimensional map showing the portion of the parcel covered by the proposed amendment;
b. If applicable, a detailed statement of any alleged error in this chapter which would be corrected by the proposed amendment and a detailed explanation of the manner the proposed amendment will correct the alleged error; and
c. A detailed statement of all other circumstances, factors and reasons including a statement as to the reasonableness of the proposed rezoning, which the applicant offers in support of the proposed amendment, such as:
    1. Consistency with county-adopted plans;
    2. Compatibility of the proposed rezoning with the property and surrounding area; and
    3. The benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.
d. If applicable, a legal description of such land.

(d) *Downzoning*. No amendment to zoning regulations or a zoning map that downzones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is

the subject of the downzoning amendment, unless the downzoning amendment is initiated by the local government. “Down-zoning" is defined by a change in zoning that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the number or intensity of 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.

(e) *Completeness review.* The applicant must comply with *Section 31.04*.

(f) *Public hearing required.* A public hearing shall be required in conformance with Section 33.01.

(g) *Decision.*

(1) *Community Development Director recommendation*. The Community Development Director, upon receipt of the application to amend the UDO or the zoning map, shall examine it for completeness. Upon acceptance, the Community Development Director shall then prepare and submit a written report with a recommendation to the planning board.

(2) *Planning board recommendation.*

a. The planning board shall receive the report from the Community Development Director and shall review the proposed request at a public meeting in conformance with *Section 33.01.*

b The planning board shall review the amendment application, staff report, additional information and consider any comments submitted to the board. The board shall recommend to the Board of Commissioners approval or denial of the application in writing.

c. In deciding whether to recommend approval or denial of the application, the planning board shall consider whether the proposed amendment is consistent with the land use plan and other county adopted plans pursuant to G.S. 160D-501. Also, the planning board will determine if an application is reasonable and in the public interest and otherwise advances or maintains the public health, safety and general welfare. Any of the following may be incorporated into the statement of reasonableness for map amendments:

(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.

(3) *Board of Commissioners.*

a. The Board of Commissioners shall not enact the proposed amendment until the planning board makes its recommendation report, or after a minimum of 30 days after the referral of the case to the planning board, whichever occurs first.

b. The Board of Commissioners shall conduct a public hearing on the proposed request. Prior to the public hearing, the board of commissioners shall receive a report from the Community Development Director including an overview of public comments received at the planning board hearing along with the written recommendations of the Community Development Director and planning board. The Board of Commissioners shall then take one of the following actions as appropriate:

(i) Approve the application;

(ii) Approve a modified version of the application; or

(iii) Deny the application.

c. *Statement of Consistency and Reasonableness*. In deciding whether to approve or deny an amendment application, the board of commissioners shall adopt a statement describing the level of consistency or inconsistency with the adopted comprehensive plan in accordance with G.S. 160D-405 (a). When adopting or rejecting a petition for a zoning map amendment, the governing board may utilize the planning board statement, furnished by the staff or applicant or create its own analyzing the reasonableness of the rezoning. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning. The statement of reasonableness and plan consistency may be approved by a single statement. Before completing review and making its final decision, the Board of Commissioners may postpone its discussion and/or action to a later meeting or refer the application back to the planning board for further consideration with written justification.

d. *Effect on Future Land Use Map.* 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. G.S.160D-605 (a).

(h) *Approval criteria.* The Board of Commissioners shall, at a minimum, consider the following factors:

(1) Map amendment (rezoning):

a. The size of the tract in question;

b. Whether the proposal conforms with, and furthers the goals of, any applicable adopted comprehensive plans or other adopted plans, and the goals, objectives, and policies of this chapter;

c. Any change of character in the area due to installation of public facilities, other zoning changes, new growth trends, deterioration, and development;

d. The zoning districts and existing land uses of the surrounding properties, including a determination of whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character; and

e. A detailed statement of any alleged error on the official zoning maps which would be corrected by the proposed map amendment.

(2) Text amendment:

a. A detailed statement of any error in this chapter which would be corrected by the proposed amendment and a detailed explanation of the manner the proposed amendment will correct the alleged error; or

b. Changing conditions or trends; or

c. Whether the proposal conforms with, and furthers the goals of, any applicable adopted plans, and the goals, objectives, and policies of this chapter.

(i) *Effect of withdrawals or denials on applications.*

(1) An applicant may withdraw the application at any time by written notice to the Community Development Director subject to the following conditions:

a. *Planning Board.* Any application withdrawn, prior to or after the planning board's action is not subject to a 12-month waiting period for re-submittal.

b. *Board of Commissioners.* Any application withdrawn after a denial of the request may not be resubmitted within 12 months of the date of the board of commissioners' action on the public hearing, unless substantially changed.

(2) When a withdrawn or denied application is resubmitted, it must follow the same procedures as a new application.

(j) *Scope of approval.* A text amendment or a rezoning does not immediately authorize development. The applicant or landowner must still secure zoning and/or subdivision approvals after a text amendment or rezoning is approved.

(k) *Codification.* A zoning text amendment shall be codified in the UDO. A change resulting from a map amendment shall be depicted on the official zoning map.

Sec. 33.03. - Conditional Zoning.

(a) *Intent.* The Conditional Zoning districts included in this section allow for the consideration of uses and development standards that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. This district may be appropriate when only specific uses or development standards within a general zoning district would be consistent with the objectives of the UDO. To accommodate those situations, this section establishes the Conditional Zoning district process.

(b) *Applicability.* A conditional zoning amendment is not intended for speculative purposes. Rather, it is based on a firm development proposal. Conditional zoning may be appropriate when a developer wishes to present a site-specific development plan for approval.

(c) *Application.* Petitions to acquire conditional zoning approval must be submitted and will be processed in accordance with the provisions in this chapter. Petitioning for conditional coning is a voluntary procedure and can be initiated only by the owner(s) of the property(ies) in question or by his/her authorized agent. Applications shall be submitted in writing, including forms provided by the county.

(d) *Contents of application.* All applications must include a Concept Site Plan (*section 31.02*), drawn to scale, and supporting text that will become part of the ordinance amendment upon approval. The Concept Site Plan must include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in conjunction with all predetermined ordinance requirements, will govern the development and use of the property. The applicant shall, at a minimum, include each of the items listed below and any other applicable sections of the UDO. The Concept Site Plan, including all additional information shown on it, and the following checklist shall constitute part of the petition for conditional zoning :

(1) A vicinity map showing the property's general location in relation to major streets, railroads, waterways.
(2) A drawing of the parcel, including the parcel identification number.
(3) All existing easement, reservations, and rights-of-way on the property(ies) in question.
(4) Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps for Rockingham County, delineation of watershed boundaries labeled with their respective classifications, and streams, ponds, and any other hydrological features.
(5) Existing and proposed topography at five-foot contour intervals or less.
(6) For residential uses, the number of units and an outline of the area where the structures will be located. For nonresidential uses, the approximate square footage of all structures, an outline of the area where the structure will be located, and building elevations with materials annotations.
(7) Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimension and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.
(8) All proposed setbacks, buffers, screening and landscaping required by the UDO and regulations of other agencies or otherwise proposed by the petitioner. In addition, the location of significant trees or tree stands on the subject property must be identified.
(9) Generalized information on the number, height, size, and location of structures.
(10) A sample of the exterior features of proposed principal structures.
(11) The proposed phasing of the project.

(12) The proposed number, location, type and size of all signs. This must include a sample diagram of the sign design.

(13) *Dedication or reservation of right-of-way.*

a. Right-of-way dedication is required for all Conditional Zoning districts fronting roadways funded for improvements in the current State Transportation Improvement Program (STIP) and must be indicated on any subdivision plat, site plan, or zoning authorization permit applications.

b. The building setback would include the required setback plus half the estimated right-of-way needed for future road improvements.

(e) *Additional information.* When dealing with the conditional zoning process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Community Development Director, Planning Board and/or Board of Commissioners may request additional information in addition to that required above, as they deem necessary.

(f) *Review.* In evaluating an application for the establishment of a Conditional Zoning district, it is appropriate for the Planning Board and Board of Commissioners to consider the following:

(1) Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;

(2) The potential impacts on the surrounding area, including but not limited the specific use(s), traffic, stormwater, land values and the compatibility of surrounding land use activities. Higher standards and conditions may be proposed for the development and other community benefits, as mutually agreed upon by the developer and county;

(3) *The potential for spot zoning*;

a. Size of tract;

b. Compatibility with adopted plans;

c. Public benefits and detriments of proposed rezoning; and

d. The relationship between proposed use and current use of adjacent properties; and

(4) *The reasonableness of the proposed rezoning, defined as*:

a. Supporting the general policies, goals and objectives of the adopted comprehensive land use plan and small area plans;

b. Promoting the harmony and compatibility of the proposed Conditional Zoning district in relationship to the surrounding land uses;

c. Serving the best interest of the community;

d. Promoting economic development; and

e. Encouraging different uses in close proximity to lessen traffic and environmental concerns.

(5) *Consistency with adopted plans*. The Planning Board and the Board of Commissioners must make written findings that either:

a. The proposed zoning is consistent with the adopted plan(s) based upon criteria in section 33.03(f)(1)—(4) above; or

b. The proposed zoning is not consistent with the adopted plan(s), but is reasonable in light of circumstances generally defined under subsection 33.03(f)(1)—(4) above, with the exception of (f)(3)b. above.

(g) *Conditions of approval of petition.* In approving a petition for conditional rezoning, the Planning Board may recommend and the Board of Commissioners may (of its own accord) require that reasonable and appropriate conditions be attached to approval of the petition. The applicant must provide written consent to any conditions in the Board of Commissioner's approval to ensure enforceability pursuant to G.S. 160D-703(b). Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to county ordinances and an officially adopted comprehensive plan or other plan and those that address the impacts reasonably

expected to be generated by the development or use of the site. Neither the Planning Board nor the Board of Commissioners may suggest or impose conditions that are otherwise not within the scope of local authority. Examples of conditions might include: the relationship of the proposed uses to the surrounding property, proposed support facilities (e.g., parking areas, pedestrian circulation systems), screening and landscaping, timing of development, street and right-of-way improvements, water and sewer improvements, provisions of open space, and other matters that the Planning Board and Board of Commissioners may find appropriate or the petitioner may propose. Such conditions of approval may include, but are not limited to, the dedication of right-of-way or easements for streets and/or utilities to serve the development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the board of commissioners. Only those conditions mutually agreed upon by board of commissioners and the applicant, with input from the public, may be incorporated into the conditional zoning approval.

(h) *Effect of approval.* If a petition for conditional zoning is approved, the development and use of the property shall be governed by:
   (1) The standards and regulations applicable to the district's zoning classification;
   (2) The approved site plan for the district;
   (3) Any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approval; and
   (4) All general and additional rules, regulations and conditions are binding on the property as an amendment to these regulations and the zoning map.

(i) *Zoning map designation.* Following approval of the petition for conditional zoning, the subject property shall be identified on the zoning map by the appropriate district designation followed by the letters "CD."

(j) *Determination—Major change requiring an amendment*. Before deciding whether a proposed action is an amendment based upon a major change, the Community Development Director shall review the record of the proceedings on the original application for the approval of the Conditional Zoning district.
   (1) An amendment comprising a major change requires approval by the board of commissioners and shall be handled as a new application. A change in a specific or general use category shall constitute a new application.
   (2) The Community Development Director will use the following criteria in determining whether a proposed change is an amendment constituting a *major change* to the approved Conditional Zoning:
      a. An increase in intensity of use which means an increase in:
         (i) Usable floor area by more than ten percent.
         (ii) Number of dwelling or lodging units by over ten percent; or
         (iii) Outside land area devoted to sales, displays, or demonstrations.
      b. Any change in parking areas resulting in an increase or decrease of ten percent or more in the number of spaces approved by the board of commissioners.
      c. Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved plan.
      d. A ten percent or more decrease in the amount or location of open space, recreation facilities, or landscape screening.
      e. Substantial changes in pedestrian or vehicular access or circulation.
   (3) If the Community Development Director determines that the proposed action constitutes an amendment, he shall require the applicant to file a request for approval of the amendment, which shall be submitted to the planning board and Board of Commissioners. The planning board shall hold a public hearing and make a recommendation to the board of commissioners who shall hold a public hearing and approve or disapprove the amendment.

(k) *Minor changes and modifications.* The Community Development Director shall have the delegated authority to approve minor changes in the Conditional Zoning district provided they are in harmony with the action of the Board of Commissioners. A minor change shall mean any change(s) that:
   (1) Any change in location or any increase in the size or number of signs;
   (2) Increases the intensity or density of nonresidential development by no more than ten percent or 1,000 square feet, whichever is less;
   (3) Any change(s) that increases the density of residential development by no more than ten percent;
   (4) Any time an applicant agrees to impose standards that are more stringent than those previously approved by the board of commissioners; or
   (5) All other changes or modifications to the Conditional Zoning district shall be treated the same as amendments to these regulations or the zoning map and shall be processed in accordance with provisions of this chapter.

(l) *Review of approval of a Conditional Zoning district.* It is intended that property shall be reclassified to a Conditional Zoning district only in the event of firm plans to develop the property. Therefore, no sooner than five years after the date of approval of the petition, the planning board may examine the progress made toward developing the property in accordance with the approval petition and any conditions attached to the approval. If the planning board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Commissioners a report which may recommend that the property be classified to another zoning district in accordance with the procedure set out in *section 33.02*, as the same may from time to time be amended.

Sec. 33.04. - Quasi-judicial procedures.

(a) *Applicability.* This section applies to any application for a special use permit, variance, appeal, or any other quasi-judicial action heard by the Board of Adjustment. All decisions will follow procedures pursuant to G.S. 160D-406. Additionally, all procedures shall follow the rules set forth in the bylaws of the Board of Adjustment.

(b) *Filing applications and appeals: priority for agenda.* The following procedures shall be followed in the preparation of the agenda for a Board of Adjustment meeting in respect to the cases that shall be heard:
   (1) At a minimum, a matter for the Board of Adjustment must be filed and accepted 45 days before the scheduled board meeting, counting the day of the board meeting as the 45th day.
   (2) The application and any supporting documentation required to be filed for a matter before the Board of Adjustment must be complete. Any applicable filing fee must be paid at the time the application is submitted or the application shall not be accepted. When a complete application is filed, the date and time of filing shall be recorded on the face of the application.
   (3) The general policy is to schedule cases on a first come, first serve basis, in accordance with the date and time the application was properly filed. Exceptions may be made at the discretion of the Community Development Director for petitions of higher priority or involving exceptional circumstances.
   (4) The agenda for the Board of Adjustment will not exceed four cases. For cases requiring expeditious disposal, a special meeting of the Board of Adjustment may be called following the guidelines of the Board bylaws and other applicable rules.
   (5) The Community Development Director has the discretion to not schedule any matter for the next regularly scheduled meeting of the Board of Adjustment if the Community Development Director determines more time is needed to investigate and prepare a review in order to make an appropriate presentation before the board.

(6) Matters that cannot be scheduled for the forthcoming meeting of the Board of Adjustment will be scheduled on a first come, first serve basis for the next scheduled meeting of the Board of Adjustment.

(7) Upon initiating a hearing on any matter, the Board of Adjustment may continue that matter for the consideration of new, additional or rebuttal evidence that could not have reasonably been presented at the initial meeting.

(c) *Hearings.*

(1) *Mailed notice.* The Community Development Director shall rely upon county tax records to determine owners of property entitled to mailed notice of the time and place of the hearing before the Board of Adjustment. Notices shall be deposited in the mail at least ten (10) days, but not more than 25 days, prior to the date of the hearing to the following:

a. The person or entity whose application, request, or appeal is the subject of the hearing;

b. The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;

c. The owners of property abutting the property that is the subject of the hearing; and

d. Anyone directly named in the application or entitled to receive notice as provided in this chapter.

(2) *Posted notice.* A notice of the hearing shall be prominently posted on the site that is the subject of the hearing or on an adjacent street or highway right of way at least ten (10) days, but not more than 25 days, prior to the date of the hearing.

(3) *Quasi-judicial*. The Board of Adjustment shall follow quasi-judicial procedures when deciding applications and requests for variances, special use permits, extensions of nonconforming uses and appeals.

(4) *Order of business*. Any party may appear in person, by agent, or by attorney at the hearing. The order of business for each hearing will be:

a. All parties desiring to speak about an issue must sign in with the secretary to the Board of Adjustment before the meeting is called. The chair of the board or any member acting as chair and the secretary must administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a class 1 misdemeanor.

b. The applicant, opposition, supporters and county may present evidence, arguments, and call witnesses. Only factual evidence is permitted. Hearsay shall not be considered by the board in making its determination. Hearsay includes, but is not limited to speculation, conjecture and nonfactual evidence or testimony. Each party will be limited to one hour for presentation, including cross-examination of opposing witnesses.

c. If there are facts within the special knowledge of a member of the Board of Adjustment or acquired by the member's personal inspection of the premises, they may be properly considered. However, they must be revealed at the public hearing and made a part of the record so that the applicant will have an opportunity to meet them by evidence or argument, and the Board of Adjustment may judge their competency and materiality.

d. Members of the Board of Adjustment may ask questions of either the applicant or his representative, any of the witnesses, the opposition, county representatives, staff or the secretary to the board.

e. Following any board discussion, the chairperson shall ask for a motion to approve or deny the request. If the motion is seconded, a vote shall be called.

(5) *Time limit.* No meeting may continue past 10:00 p.m. without a majority vote of the board members to suspend this rule.

(6) *Rulemaking authority*. The Board of Adjustment may adopt general rules for quasi-judicial hearings.

(7) *Conduct of hearing.* The Board must hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case. The evidentiary hearing must have testimony under oath and must establish written findings of fact and conclusions of law as provided in G.S. 160D-406.

a. *Presentation and objections to evidence*. The applicant, county and any person who would have standing to appeal the decision under G.S. 160D-1402(c) 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 board. 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 board. The 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 if appealed for judicial review.

b. Parties with standing. Parties with standing may present evidence, legal arguments, cross-examine witnesses or provide objections to evidence. The board chair may allow non-parties to present competent, material and substantial evidence provided it is not repetitive pursuant to G.S. 160D-406(d).

(d) *Subsequent hearings.* Should a matter fail to receive a favorable vote of approval, any applicant must wait one year before the matter may be submitted again for the board's consideration.

(e) *Application withdrawal.* Should an application be withdrawn after the first notice of the public hearing, the application shall be considered to be denied, and any applicant must wait one year before the matter may be submitted again for the board's consideration.

Sec. 33.05. - Decisions by the Board of Adjustment.

(a) *Scope of action*. In making quasi-judicial decisions, the Board of Adjustment must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and may exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use regulations to individual situations, such as variances, special use permits, and appeals of administrative determinations, including those from the Community Development Director or Technical Review Committee. These decisions involve two key elements:

(1) The finding of facts regarding the specific proposal, and

(2) The exercise of discretion in applying the standards of the ordinance. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes a hearing with the right of the parties to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial, and material evidence.

(b) *Decision.* The concurring vote of four-fifths of the Board shall be necessary to grant a variance. The affirmative vote of a majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made to the Board. The decision includes any final and binding order, requirement, or determination and shall be based upon competent, material, and substantial evidence in the record.

(c) *Time.* Decisions of the Board of Adjustment on any matter shall generally be made at the conclusion of the hearing, or within a reasonable time from the conclusion of the hearing. A quasi-judicial decision is effective upon filing the written decision with the secretary to the board and receipt of hearing outcome by the applicant.

(d) *Form.* Decisions shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and any person who

has submitted a written request for a copy. The Community Development Director shall certify that proper notice has been made.

(e) *Minutes.* The final decision of the Board of Adjustment on each matter shall be shown in the record of the case and recorded in the minutes. Such records shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact related to standards in the UDO for each type of request and conclusions of law made by the Board of Adjustment. Where a variance is granted, the record shall state in detail any requirements of G.S. 160D-705 (d). The record shall state in detail what, if any, conditions and safeguards are imposed by the Board of Adjustment in connection with the granting of a variance provided they are reasonably related to the variance.

Sec. 33.06. - Appeals.

(a) *Applicability.* The Board of Adjustment shall hear and decide all appeals from and review any administrative action taken by the Community Development Director. Each decision of the Board of Adjustment is subject to review by the superior court by proceedings in the nature of certiorari and subject to G.S. 160D-406 Quasi-judicial procedure.

(b) *Community Development Director—Decision.*

(1) The appellant must submit an appeal, in writing, to the Board of Adjustment within 30 days following the date of written notice of decision, if the notice is sent by mail, it is presumed to be received on the third business day after it is sent pursuant to G.S. 160D-405(d). The written appeal must state the grounds for the appeal and be filed with the recording secretary of the Board of Adjustment. If a written appeal is not made within the 30-day period, the matter shall be deemed to be closed, and the decision of the Community Development Director shall be final.

(2) The appellant shall not be limited at the hearing to matters stated in the 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 of Adjustment shall continue the hearing.

(3) An appeal to the Board of Adjustment from a notice of violation, enforcement order, decision or determination by the Community Development Director stays all enforcement proceedings in furtherance of the decision or determination appealed from, except as provided below:

a. Because of the facts stated in an affidavit, a stay would cause imminent peril to life or property; or

b. The situation appealed from is transitory in nature, and, therefore, an appeal would seriously interfere with enforcement of this chapter.

c. In such case, enforcement proceedings shall not be stayed except by an order granted by a court.

(5) If enforcement proceedings are not stayed, the appellant may file with the Community Development Director a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed.

(6) The Community Development Director will provide copies of all documents and exhibits constituting the record upon which the action appealed from is taken to the board, the applicant, and the landowner if the appellant is not the landowner.

(7) In considering appeals, the Board of Adjustment may hear both those based upon an allegedly improper or erroneous interpretation of this chapter and those based upon alleged hardship resulting from strict enforcement of this chapter.

(8) The board may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination of the Community Development Director from which an appeal is taken and make the correct order, requirement, decision, or determination. For that purpose, the board has the same authority as the Community Development Director from which the appeal is taken.

(9) The board may rule in favor of the appellant if it finds the order, requirement, decision, or determination from which an appeal is taken:

a. Was the result of an incorrect or unlawful interpretation of this chapter; or
b. Would result in a taking of private property, or otherwise result in a deprivation of constitutional rights.

(10) The board's decision shall provide the minimum amount of relief necessary in order to comply with the requirements of subsection (9) above.

(11) Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the board may grant a stay of the final decision of permit applications or building permits affected by the issue being appealed.

(12) The Community Development Director shall not amend the Board of Adjustment's decision.

(13) The Community Development Director and any other staff persons involved in the decision, or a subsequent staff person fulfilling his or her position if no longer with the County, must appear at the appeal hearing.

(14) *Recording.* A copy of the board's decision shall be maintained by the Community Development Director.

(c) *Board of Adjustment—Decision.* Any petition for review shall be filed with the clerk of superior court within 30 days after the decision of the board is made, or after a written copy thereof is received by every appellant, whichever is later.

Sec. 33.07. - Special use permits.

(a) *Applicability*. This section applies to any use that is designated as a special use in the Table of Permitted Uses, section 41.04-1.

(b) *Application*. The application for a special use permit, along with a Detailed Site Plan (if required), must be submitted to the Community Development Director.

(c) *Completeness review.* The applicant must comply with *section 31.04*.

(d) *Quasi-judicial hearing required.* A quasi-judicial hearing shall be required which follows the quasi-judicial process in section 33.04.

(e) *Decision.*

(1) Upon receipt of an application for a special use permit, the Community Development Director shall submit a report to the Board of Adjustment within a reasonable period of time and a quasi-judicial hearing shall be conducted by the Board of Adjustment to approve or deny the request.

(2) After hearing the Community Development Director's report and the completion of the quasi-judicial hearing, the Board of Adjustment shall approve, approve with conditions, or disapprove the application. In every case, the Board of Adjustment shall include a summary of the evidence supporting the action taken on the application.

(f) *Approval criteria.*

(1) Before any application for a special use is approved, the Board of Adjustment shall make written findings certifying compliance with the specific standards governing each individual special use and that the general standards contained in this section are met. The board shall make appropriate findings, supported by evidence in its record, on each general and specific standard.

(2) General standards.

a. The following general standards must be met for approval of special uses pursuant to this chapter:

(i) The use will not materially endanger the public health, safety, and general welfare, if located where proposed and developed and operated according to the application;

(ii) The use, which is listed as a special use in the district in which it is proposed to be located, complies with all required regulations and standards of the UDO, unless

greater or different regulations are contained in the individual standards for that special use;

(iii) The use will not substantially injure the value of adjoining or abutting property; and

(iv) The use is consistent with any adopted plans that encompass the property subject to the application.

b. The Board of Adjustment shall make these general findings based upon substantial evidence contained in its proceedings. The board may refer to staff's report to aid in its deliberations. The applicant has the responsibility of presenting evidence in the form of testimony, exhibits, documents, models, plans, and the like to support the application for approval of a special use.

(3) Imposed conditions.

a. The Board of Adjustment may impose such reasonable conditions as will afford protection of the public safety and maintain substantial justice.

b. Such conditions shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

c. Conditions may not be imposed that the local government does not otherwise have authority to impose.

d. The applicant must provide written consent to any conditions of the special use permit approval to ensure enforceability pursuant to G.S. 160D-1403.2.

(g) *Expiration.* Special use permits are valid for five years from the date the Board of Adjustment approved the use and shall automatically expire at that time unless the property is being used in conformance with all requirements of the permit.

(h) *Amendments and minor changes.* Before deciding whether a proposed action is an amendment or a minor change, the Community Development Director will review the record of the proceedings on the original application for the approval of the special use.

(1) An amendment requires approval by the Board of Adjustment and shall be handled as a new application. A change in use or significant changes to a proposed site plan shall constitute a new application.

(2) The Community Development Director may approve minor changes in an approved special use permit, as long as they are in harmony with the action of the Board of Adjustment. The Community Development Director will use the following criteria in determining whether a proposed change is an amendment to the approved special use permit:

a. Any increase in intensity of use which means an increase in:

(i) Usable floor area exceeding ten percent;

(ii) Number of dwelling or lodging units exceeding ten percent; or

(iii) Outside land area devoted to sales, displays, or demonstrations.

b. Any change in parking areas resulting in an increase or reduction of ten percent or more in the number of spaces approved by the Board of Adjustment.

c. Structural alterations significantly affecting the basic size, form, style, and the like of the building, as shown on the approved Detailed Site Plan.

d. A ten percent or more decrease in the amount or location of open space, recreation facilities, or landscape screens.

e. Substantial changes in pedestrian or vehicular access or circulation.

(3) If the Community Development Director determines that the proposed action is an amendment based on the criteria in subsection (2) above, the applicant shall be required to file a request for an amendment to the special use permit, which shall be submitted to the Board of Adjustment. The Board of Adjustment shall hold a quasi-judicial hearing and render a decision on the amendment.

(i) *Notice of disposition*. The Community Development Director shall send notice of the disposition of the application to the applicant by personal delivery, electronic mail, or by first-class mail. A copy of the decision shall be maintained in the office of the Community Development Director.

(j) *Scope of approval.*

(1) After the approval of a special use Detailed Site Plan, a zoning permit will be issued. A zoning permit shall not be issued if the development activities do not conform to the approved Detailed Site Plan.

(2) The site plan is binding on the applicant and any successors in title, unless it expires or is amended as provided in this section.

Sec. 33.08. - Variances.

(a) *Applicability.* This section applies to any application to vary any dimensional requirements or modify any of the provisions of the UDO. This shall not include variances of any permitted or unpermitted uses.

(b) *Application.* The application for a variance, along with a site plan, must be submitted to the Community Development Director.

(c) *Completeness review.* The applicant must comply with *section 31.04*.

(d) *Quasi-judicial hearing required.* A quasi-judicial hearing shall be required which follows the quasi-judicial process in *section 33.04*.

(e) *Decision.*

(1) The Community Development Director shall submit a report to the Board of Adjustment within a reasonable period of time from the date of the variance application.

(2) After hearing the Community Development Director's report and completion of the quasi-judicial hearing, the Board of Adjustment shall approve, approve with conditions, or disapprove the application. In every case, the Board of Adjustment shall include a summary of the evidence supporting the action taken on the application.

(3) The concurring vote of four-fifths of the board is necessary to grant a variance.

(f) *Approval criteria.*

(1) The Board of Adjustment may approve a variance only in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

a. Unnecessary hardship would result from the strict application of this chapter. It will not be necessary to demonstrate that no reasonable use can be made of the property in the absence of the variance.

b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, costs, 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 may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

c. 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.

d. The requested variance is consistent with the spirit, purpose, and intent of this chapter, such that public safety is secured, and substantial justice is achieved.

(2) All of these findings of fact shall be made in the indicated order by the Board of Adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all four categories. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the board.

(3) ~~No change in permitted uses may be authorized by variance.~~ Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance.

(g) *Expiration.* A variance does not expire and runs with the land.

(h) *Change to variance*. A change to an approved variance requires a new variance application and Board of Adjustment hearing.

(i) *Zoning authorization permit*. After approval of a variance, the applicant must apply for a zoning permit before undertaking any development authorized by the variance.

(j) *Notice of disposition*. The Community Development Director shall give notice of the disposition of the application to the applicant by personal delivery, electronic mail or by first-class mail. The Community Development Director shall file a copy of the decision in the office of the Community Development Director.

Sec. 33.09. - 33.16. - Reserved.

DIVISION 4. - SUBDIVISION PROCEDURES

Sec. 34.01. - Generally.

Subdivision road standards are found in *Sec. 53.03*

(a) *Applicability.*

(1) Subdivision includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purposes of sale or building development, whether immediate or future, and includes all divisions of land involving the dedication of a new street or a change in existing streets. However, the following shall not be included within this definition nor be subject to the regulations authorized by this chapter in accordance with G.S. 160D Article 8:

a. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in this chapter.

b. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

c. The public acquisition by purchase of strips of land for widening or opening of streets.

d. The division of a tract in single ownership, the entire area of which is no greater than two acres into no more than three lots, if no street right-of-way is involved and where the resultant lots are equal to or exceed the standards of the county, as shown in this chapter, including lot dimensions, ROW width and road construction requirements.

e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(2) A parcel of land for which a separate deed has been recorded shall not be occupied until there is a recorded subdivision plat, as defined in this article, approved by the county in accord with the subdivision regulations that were in place at the date of the creation of the deeded lot.

(3) No subdivision shall be made, platted or recorded for any purpose, nor shall parcels resulting from such subdivision be sold unless such subdivision meets all of the requirements of this chapter and applicable related regulations.

(4) No plat of any subdivision within such jurisdiction shall be filed or recorded by the county register of deeds until it has been submitted to and approved by a designated plat review officer and such approval entered in writing on the plat.

(b) *Classification of subdivisions.*

(1) There are two categories of subdivisions subject to this division: major and minor. The plat classification and required approvals for each type of subdivision are listed in table 34.01-1 below.

Table 34.01-1. Plat classifications and required approvals.

Classification	Description	Preliminary Plat Required	Final Plat Required
Major subdivision	• New roads, built to NCDOT standards, are required with rights-of-way dedication;	✓	✓
	• Existing right-of-way dedicated on or after October 1, 1975 but road not built to NCDOT standards; or	✓	✓
	• The subdivision does not meet the definition of a minor subdivision as defined in this table.	✓	✓
Minor subdivision	• Creation of not more than five new lots excluding the residual parcel. No more than five lots may be accessed by a private drive (see *section 53.03*). The minor subdivision provision may not be used a second time anywhere on the residual tract within three (3) years after the fifth minor subdivision lot was created.	✓	✓
Exempt	A division of land that meets the definition of an exempt subdivision according to North Carolina General Statute 160D-802		✓

(c) *Plat approval.*

(1) The effect of plat approval on the status of dedications is as follows:

a. The approval of a plat does not constitute or effect an acceptance by the county or the public of the dedication of any street, open space or other improvements shown upon the plat.

b. Acceptance of such dedications shall only be by resolution of the Board of Commissioners or appropriate action by the state department of transportation. The Board of Commissioners shall consider such resolutions only on determination that any required improvements have been properly installed and all applicable conditions met, as set out in this chapter and that a public purpose is served.

(2) All easements, private and public rights-of-way must be recorded by plat.

(3) Existing undeveloped rights-of-way must be developed to the appropriate standards before subdividing.

(4) Driveways must access an approved road.

(d) *Effect of subdivision regulations on naming streets.* It shall be unlawful for any person to lay out any new street or road, and to name such street or road on any plat, by any marking, or in any deed or instrument without first getting the approval of the appropriate authority. Any person violating this subsection shall be guilty of a misdemeanor.

(e) *Markers and monuments.*

(1) Monuments must comply with the requirements of the North Carolina General Statutes and the current edition of the Standards of Practice for Land Surveying in North Carolina and be placed in all subdivisions.

(2) Any permanent monuments or markers displaced or destroyed during the course of development or construction in the subdivision shall be accurately witnessed and replaced upon completion of such development or construction.

Sec. 34.02. - Sketch plats/preliminary plats (major subdivisions).

(a) *Filing.* Applications for approval of subdivision plats must be filed with the Community Development Director for the technical review committee's consideration.

(1) *Sketch plat.* A sketch plat is an optional submittal that is less detailed than a preliminary plat and may be considered by the technical review committee for review purposes. The procedures manual shall be followed for required information on a sketch plat. A review of a sketch plat gives the developer direction as to how to proceed with the preliminary plat and does not constitute authorization to proceed with any development improvements.

(2) *Preliminary plat.* A preliminary plat submittal is required as note in *table 34.01-1* above, and has sufficient detail to be considered by the technical review committee for approval. Substantial details are noted in the procedures manual and at a minimum must include: topography, lot lines and dimensions, existing structures, easements, proximity to airports/airstrips, street plans and profiles, drainage patterns and design.

(b) *Completeness review.* See *section 31.04*

(c) *Decision.*

(1) *Community Development Director.* The Community Development Director shall review an application for a major subdivision plat and make recommendations to the technical review committee, including the recommendations of other affected agencies of government. The technical review committee shall act as provided in this section.

(2) *Technical review committee.*

a. The technical review committee shall approve, approve with conditions, or deny the major subdivision application. The technical review committee shall act on applications submitted 45 days prior to the regularly scheduled technical review committee meeting, unless the applicant consents in writing to an extension of this time limit.

b. If the technical review committee or Community Development Director determines that the application does not comply with this section, the application and related materials shall be returned to the applicant with written findings as to required corrections and/or completions necessary prior to resubmission. A new time period of at least 45 days prior to the regularly scheduled meeting is required for each resubmission. If the Community Development Director or technical review committee determines that the errors are minor, the application may be revised and resubmitted without resubmitting the application.

c. Where applications are approved without conditions, the Community Development Director shall notify the applicant of the approval date.

d. Where applications are approved with conditions, the Community Development Director shall notify the applicant in writing of the conditions and the reasons.

e. Where applications are denied, the Community Development Director shall notify the applicant of the reasons. All such notices shall be in writing and dispatched by first class mail to the applicant within ten working days of the date of decision by the technical review committee.

f. The decision, and the grounds for the decision, shall be recorded in the minutes of the technical review committee.

(3) *Failure to act.* When the technical review committee fails to take action on the application within the time period prescribed above, the application is deemed to be approved without conditions. If the application is returned for correction of errors or omissions and resubmittal, or the applicant agrees to an extension of the time limitations, the action shall be taken within the new

time limit or the time limit agreed to by the applicant. If action is not taken within the revised time period, the application is deemed to be approved without conditions.

(d) *Extensions of approval and substantial progress.*
   (1) Upon approval of the preliminary plat by the technical review committee, the applicant has up to five years to complete all improvements in compliance with this chapter and obtain final plat approval. An additional extension of five years may be granted by the technical review committee only where the applicant demonstrates good cause and where there has been a substantial expenditure of resources directly related to the subdivision development as reviewed by the technical review committee. Examples of substantial expenditures include consulting fees from development specialists for the survey of the property, soil evaluation, erosion control plan, engineering design for roadway, waterlines, sewer lines, permit fees or fees associated with land preparation such as clearing, rough grading or fine grading.
   (2) In all cases where extensions are granted, the cumulative time period for obtaining final plat approval shall not exceed a total period of ten years from the date of the initial preliminary plat approval.

(e) *Copy.* A copy of the decision approving the preliminary plat will be maintained in the planning office.

(f) *Successive applications.* There is no limit on successive applications for preliminary plat approval; however, before a new preliminary plat application can be accepted a written request must be submitted from the previous applicant or current owner to withdraw a preliminary plat previously approved. The technical review committee must vote on the withdrawal of the previous preliminary plat before considering the new application.

(g) *Amendments.* Minor changes may be administratively approved. If the amendment is not a minor change, a preliminary plat shall be amended by filing and obtaining approval from the technical review committee. An amendment to a preliminary plat includes:
   (1) When the location of a road is altered or a new road is proposed
   (2) Additional lots are proposed,
   (3) The amount and location of open space is revised
   (4) Addition or deletion of community amenities

Sec. 34.03. - Major subdivision final plats.

(a) *Preliminary plat approval required.* Preliminary plat approval must be obtained before applying for final plat approval.

(b) *Application time frame.* An application for final plat approval must be filed with the Community Development Director within five years of the preliminary plat approval, unless an extension is approved; otherwise, the preliminary plat approval shall expire.

(c) *Completeness review.* See section 31.04.

(d) *Decision.* The Community Development Director shall administratively approve the final major plat. All required improvements must be complete or a performance guarantee package, as detailed in section 36.02, must be submitted and approved by the Community Development Director.

(e) *Approval criteria.*
   (1) The final plat shall be approved if it conforms to the approved preliminary major plat and all preliminary conditions of approval; and
   (2) Except where a performance guarantee has been approved, all required improvements must be completed by the applicant, or his agents, and inspected and approved by appropriate public officials or agencies before final plats can be approved; and
   (3) The final plat meets the requirements of the procedures manual.

(f) *Successive applications.* There is no limit on successive applications for final plat approval.

(g) *Amendment.* A final plat may be amended by filing and obtaining approval of a new application for final plat approval.

(h) *Recording.* If an approved major subdivision final plat is not recorded in the register of deeds office within 60 days of approval, the plat expires and a new plat must be submitted.

Sec. 34.04. - Minor subdivisions.

(a) *Initiation.* A preliminary plat for a minor subdivision must be submitted to the Community Development Director for review prior to obtaining final plat approval.

(b) *Completeness review.* See *section 31.04*

(c) *Administrative review and approval.* Once a minor subdivision plat is administratively reviewed and approved by the Community Development Director, including any required changes, the final plat may be submitted to the Community Development Director, who shall have up to five working days to review and approve the minor subdivision.

(d) *Compliance with chapter.* No application for a minor subdivision plat shall be approved unless it complies with all applicable requirements of this chapter.

(e) *Amendment.* A minor subdivision plat may be amended by filing and obtaining approval of a new application for minor subdivision plat approval.

(f) *Recording.* If an approved minor subdivision plat is not recorded in the register of deeds office within 60 days of approval, the plat expires and a new plat must be submitted.

Sec. 34.05. - Reserved

Sec. 34.06. - Appeals process.

(a) *Appeals of Community Development Director's actions.* Any subdivision-related decision of the Community Development Director may be appealed to the technical review committee by the applicant or his agent within 30 days from the date of the decision. An appeal must be in writing and delivered to the Community Development Department. If a written appeal is not made within the time period the decision of the Community Development Director shall be final. It is presumed that if a notice of determination is sent, it is received on the third business day after being sent.

(b) *Appeals of technical review committee's actions.* Actions of the technical review committee may be appealed to the Board of Adjustment. Appeals must be filed in the planning department, by the applicant of the subdivision plat or his agent, within 30 days of the date of the action of the technical review committee.

Sec. 34.07. - Vacating a plat and road abandonment.

Purpose: This section establishes procedures and criteria for approving the elimination of a plat, in whole or in part.

(a) *Applicability.* The owner of a parcel subject to an approved plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If lots in the plat have been sold or built upon, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(b) *Initiation.* The owner or owners of lots in any approved subdivision, must initiate a plat vacation by filing a preliminary plat with the Community Development Director.

(c) *Completeness review.* See *section 31.04*.

(d) *Decision.*

(1) *Vacated plat.* The vacated plat shall be approved under the procedures for which the original plat was approved. The approving entity shall approve or deny an application for a plat vacation.

(2) *Road or Easement abandonment.*

a. A major subdivision road that is dedicated to the public but not yet accepted by NC DOT cannot be abandoned without approval from the Technical Review Committee.

b. A minor subdivision road that is dedicated to the public but not yet accepted by NC DOT cannot be abandoned without Community Development Director approval. A dedicated

access easement abandonment also requires approval of the Community Development Director.

c. Roads dedicated to the public, not open or used within 15 years after dedication, may be withdrawn in accordance with G.S. 136-96 without NC DOT or county approval.

(e) *Approval criteria.*

(1) No application for a plat vacation shall be approved unless it complies with all applicable requirements of this chapter.

(2) The approving entity shall not approve an application for a plat vacation if it will materially injure the rights of any nonconsenting property owner or any public rights related to public improvements unless expressly agreed to by the agency with jurisdiction over such improvements.

(f) *Recording.* After the new plat is approved, the plat must be recorded, within 60 days, with the register of deeds office. Upon the execution and recording of the new plat, the vacated plat has no effect. The resubdivision of the land covered by a plat that is vacated shall be platted in the same manner as is prescribed by this chapter for an original plat.

Sec. 34.08. - 34.15. - Reserved.

DIVISION 5. – VESTED RIGHTS

Sec. 35.01. - Process to Claim Vested Right

A landowner claiming a statutory or common law vested right may submit information to substantiate that claim pursuant to North Carolina General Statute 160D-108 in writing. The claim shall be concurrent with an application for a zoning map amendment, subdivision plan approval, a conditional coning, a special use permit, a site plan approval or a planned unit development approval. The Community Development Director shall make an initial determination as to the existence of the vested right. Any determination may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

Sec. 35.02. - Types and Duration of Statutory Vested Rights

Amendments in Rockingham County development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to N.C.G.S. 160D-108 long as one of the types of approvals listed in this subsection remains valid and unexpired. Each type of vested right listed in this subsection is defined by and is subject to the limitations provided in this section. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by Rockingham County approvals are as follows:

(a) Six months - Building permits. - Pursuant to G.S. 160D-1109, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.

(b) One year - Other local development approvals. - Pursuant to G.S. 160D-403(c), unless otherwise specified by statute or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.

(c) Two years - Site-specific vesting plans.

(1) Duration. - A vested right for a site-specific vesting plan shall remain 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 Rockingham County ordinance.

(2) Relation to building permits. - A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D-1109 and G.S. 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.

(3) Requirements for site-specific vesting plans. - For the purposes of this section, a "site-specific vesting plan" means a plan submitted to Rockingham County describing with reasonable certainty 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 site plan, a preliminary or general development plan, a special use permit, a Conditional Zoning, or any other development approval as guided by Rockingham County ordinance. What constitutes a site-specific vesting plan shall be defined by the relevant development regulation, and the development approval that triggers vesting shall be so identified at the time of its approval. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In absence of a Rockingham County regulation setting forth what constitutes a site-specific vesting plan, any development approval shall be considered to be a site-specific vesting plan. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall 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.

(4) Process for approval and amendment of site-specific vesting plans. - If a site-specific vesting plan is based on an approval required by Rockingham County development regulations, a notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting plan established under this subdivision. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held. Rockingham County may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by its terms and conditions will result in a forfeiture of vested rights. Rockingham County shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the local government's decision approving the plan or such other date as determined by the Board of County Commissioners upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by the Zoning Administrator, if such are defined and authorized by local regulation.

(a) Seven years - Multiphase developments. - A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 100 acres or more that is

(1) submitted for site plan approval for construction to occur in more than one phase and

(2) subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(b) Indefinite - Development agreements. - A vested right of reasonable duration may be specified in a development agreement approved under N.C.G.S. 160D-1001.

(c) *Continuing Review*

Following approval or conditional approval of a statutory vested right, a local government may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The local government may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(d) Exceptions The provisions of this section are subject to the following:

(1) A vested right, once established precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except when any of the following conditions are present:

a. The written consent of the affected landowner.

b. Findings made, 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 approved vested right.

c. The extent to which 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 local government, together with interest as is provided in G.S. 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.

d. Findings made 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 local government of the vested right.

e. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved site-specific vesting plan or phased development plan, in which case the local government 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.

(2) The establishment of a vested right shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change, or impair the authority of a local government to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Sec. 35.03. - Miscellaneous Provisions

A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a vested right all successors to the original landowner shall be entitled to exercise such rights. Nothing in this section shall preclude 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.

Sec. 35.04. - Termination of a Vested Right

A zoning right that has been vested as provided in this article shall terminate with:

(a) The written consent of the affected landowner.

(b) Findings made, 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 approved vested right.

(c) The extent to which 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 local government, together with interest as is provided in G.S. 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.

(d) Findings made, 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 local government of the vested right.

(e) The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the local government may modify the

affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

DIVISION 6. - DEVELOPMENT MAINTENANCE AND GUARANTEES

Sec. 36.01. - Homeowners' associations.

(a) *Applicability.* This section applies to any situation where a homeowners' association or similar legal entity is responsible for the maintenance and control of roads, open space, recreational facilities, or other common areas and facilities associated with a subdivision or other application for development approval. If there is only a shared road, without other common areas, a road maintenance agreement is sufficient.

(b) *Duties.* The homeowners' association shall:

(1) Have clear legal authority to maintain and exercise control over the common areas, roads and facilities; and

(2) Have the power to compel contributions from development residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities; and

(3) Be established before any dwelling unit or lot in the development is sold or any building in the development is occupied.

(c) *Documentation.*

(1) Documents establishing a homeowners' association or similar legal entity in accordance with this section must be submitted and reviewed by the Community Development Director before any plat for the development is recorded. The documents must state that the homeowners' association has legal authority to carry out the provisions of subsection (b) above or the developer may submit an affidavit to this effect. The documents must be referenced on the plat and recorded simultaneously with the county Register of Deeds.

(2) The review by the Community Development Director shall be limited to ensuring compliance with subsection (b) above.

Sec. 36.02. - Completion of improvements and performance guarantees.

(a) *Generally.* In lieu of completion of all or part of the required improvements, and prior to approval of the final subdivision plat or issuance of zoning conformance approval the applicant may post a performance guarantee in the amount of 1.25 times of the estimated cost for the construction, installation and dedication of the uncompleted portion of the required improvements. The performance guarantee guidance below will be issued pursuant to the standards of NCGS 160D-804.1.

(b *Type of guarantee.* The following types of performance guarantees are permitted:

(1) A certified check or other form of guarantee that provides equivalent security to a surety bond or letter of credit;

(2) A no-contest irrevocable bank letter of credit licensed to do business in North Carolina; or

(3) A performance and payment bond underwritten by a state-licensed corporate surety company.

(c) *Requirements.*

(1) Except for certified checks, sureties shall not be accepted unless the county attorney has made a review and rendered a written opinion that the interests of the County are fully protected.

(2) The certified check must be deposited with the county finance director, as escrow agent, who shall deposit the check in an interest-bearing escrow account of the county, with all interest accruing to the applicant.

(3) The no-contest irrevocable bank letter of credit shall be from a banking corporation licensed to do business in the state. The terms of the letter must include the absolute right of the county finance director to withdraw funds from the bank forthwith upon the county manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached. The letter of credit must be valid for up to 12 months from the date that the performance guarantee was approved.

(d) *Plans, contracts and construction programs.* Procedures for submission of plans, contracts and construction programs are as follows:

(1) The applicant has the option of submitting either:

a. Executed contracts, from state-licensed contractors, made assignable to the applicant and the county; or

b. A per-unit cost sheet submitted by a registered, professional engineer who has civil engineering qualifications.

(2) Plans, specifications, quantities, unit costs or executed contracts must be provided by the applicant to the Community Development Director, together with a schedule indicating time of initiation and completion of the work. The complete performance guarantee package must be submitted concurrently with the final plat.

(3) The Community Development Director shall seek information from relevant government agency, including county engineering staff, as to sufficiency of the costs and the reasonableness of construction plans.

(e) *Amount, time limits, approval and extensions of performance guarantee.* The performance guarantee must include, the terms, amount, time of initiation and completion of the work, reasons for extension, and provisions for release of the guarantee upon completion of the work.

(1) *Amount.* The guarantee shall be 1.25 times the executed contract amount or the certified cost estimate, whichever is provided. The amount of the guarantee must be sufficient to provide adequate funds to the county to ensure, in the case of default, the installation of all required improvements uncompleted at the time of default. In reviewing the amount of the performance guarantee, the Community Development Director shall consider the difficulty of restarting a closed project, the size and complexity of the required improvements, the record of the applicant and the site conditions.

(2) *Time limit.* The time between initiation and the completion of the required improvements shall not exceed one year from the date the performance guarantee was approved.

(3) *Approval.* If the information is complete and the guarantee amount is satisfactory, the Community Development Director shall administratively approve the performance guarantee package.

(4) *Extension.* The Community Development Director may grant extensions for performance guarantees based on the circumstances surrounding the request for an extension and the record of the applicant. The amount of any performance guarantee extension shall be determined according to the same procedures for determining the initial guarantee, not to exceed 1.25 times the reasonably estimated cost of completion of the remaining improvements still outstanding at the time the extension is obtained.

(5) *Release.* The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Community Development Director that the improvements for which the performance guarantee is being required are complete. The County shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to County acceptance. When required improvements that are secured by a bond are completed to the specifications required or if subject to its acceptance, upon request by the developer, the local government shall provide written acknowledgement that the required improvements have been completed.

(f) *Inspections; reports; cost responsibility.* Procedures for inspections and reports and the responsibility for the cost are as follows:

(1) The Community Development Director and any other designated representatives of local and state permitting agencies shall inspect to determine whether work has started as scheduled, make periodic inspections during the course of work, and make a final inspection to determine

whether stages of construction required under the performance guarantee or otherwise required have been completed in accord with the terms of the guarantee. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the County at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured pursuant to NCGS 160D-403(e).

(2) Within ten days of the inspections, copies of reports of the results should be provided to the Community Development Director.

(3) The applicant is responsible for all costs associated with making the inspections and preparing the reports.

(4) In lieu of having inspections conducted by the government body, the applicant, at his cost, may elect to have a registered, professional engineer licensed in North Carolina conduct the inspections, as stated above, and submit reports to the Community Development Director.

(g) *Action on inspection reports.* The following actions may be taken regarding inspection reports:

(1) *Reports indicating satisfaction of requirements and release.* Where reports indicate satisfactory completion of work within time limits set and are in accord with the terms of the performance guarantee, for agreed-upon stages or for the entire work, the Community Development Director shall indicate so in writing to the applicant, any surety company involved and the county manager. The county manager, upon such notification and any further assurance he may require from the county attorney or government agency exercising operating control, shall then release the performance guarantee in accord with the terms thereof. The County shall return in a timely manner letters of credit, escrowed funds or otherwise with written acknowledgement that the required improvements have been completed.

(2) *Reports indicating failure to satisfy requirements.* Where the reports indicate failure to complete work on schedule in full compliance with the terms of the performance guarantee, the Community Development Director shall indicate so in writing to the applicant, government agency exercising control, any surety company involved, and the county manager. Such notice shall indicate that unless action required under the terms of the performance guarantee is completed within 30 days of the date of such notification, the performance guarantee or portions thereof, set forth in its terms, shall be called. Unless such action is completed, as evidenced by inspections and reports from government agency exercising control transmitted through the Community Development Director, the County Manager shall call the performance guarantee or affected portions thereof.

(3) *Reports indicating unsatisfactory progress.* Where such reports indicate that work initiated appears unlikely to be completed on schedule, and where the performance guarantee provides for extension of time for cause, the Community Development Director shall notify, in writing, the applicant and any surety company involved, concerning the potential need for an application for an extension. Where notice has been given, no application for an extension shall be considered following the expiration of the original schedule date.

(h) *Failure to complete work under performance guarantee.* Where work required under the terms of any performance guarantee is not completed by the applicant, and following the call of the guarantee, the county manager shall take the necessary action to procure the completion of the required improvements at the earliest reasonable time, according to the plans and specifications.

(i) *Guarantee of other government agency or public utility.* Where all or part of required subdivision or development improvements are to be completed by another government agency or public utility, the Community Development Director may accept the written guarantee of the agency to complete the improvements within a time to be mutually agreed upon.

(j) *Building permits and certificates of occupancy.*

(1) Unless a performance guarantee has been approved by the Community Development Director, building permits may not be issued for construction of any structures in the development or subdivision.
(2) Certificates of occupancy may be issued, and buildings occupied, only when all of the following improvements are met:
    a. Under normal weather conditions, streets must be passable for private, service, and emergency vehicles.
    b. Driveways must be passable under normal weather conditions.
    c. Adequate drainage must be installed and operative to ensure that, there will be no flooding of the building site or access ways to the site under normal weather conditions.
    d. Erosion control measures must be in place in accordance with approved DEQ plans.
    e. Domestic or public water supply and sanitary sewerage or septic tank must be installed and operative.
(3) No permits or certificates shall be issued unless all remaining required improvements are covered by a performance guarantee and the applicant accepts tort liability pending completion of all required improvements.

DIVISION 7. - ENFORCEMENT PROCEDURES

Sec. 37.01. - Zoning Violations.

(a) *Generally.*

(1) Whenever any act is required or prohibited by the zoning ordinance or whenever any regulation or limitation is imposed on the use of any land or water, or on the erection of a structure, a failure to comply with the applicable provisions of this Ordinance shall constitute a violation of the Unified Development Ordinance (UDO). Examples of violations may include development without a permit or use in violation of zoning regulations.

(2) The owner, tenant, or occupant of any land or structure or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of the UDO shall be held responsible for the violation and be subject to the penalties and remedies provided in this section.

(b) *Notice of Violations.*

(1) Upon the determination that any section of this chapter is being violated, the Community Development Director or their designee shall send, within ten working days, a written notice of violation by registered mail, certified mail, first class mail, electronic or personal delivery to the person responsible for such violation. The notice of violation may be posted on the property. The notice shall include the following information:

a. The land, building, sign, structure, or use that is in violation of this Ordinance;

b. The nature of the violation and reference to the section of the Ordinance violated; and

c. The measures necessary to remedy the violation.

(2) The written notice shall state the action the Community Development Director intends to take if the violation is not corrected. The notice shall also advise that the Community Development Director may seek enforcement without prior written notice by invoking any remedies allowed by law.

(3) *Process of Notice*. The following shall comprise the actions taken by the Community Development Director or their designee when issuing a notice of violation as noted above.

a. Notice will give the responsible party fifteen (15) days to cease or correct the violation. If the violation is not corrected within these fifteen (15) days, a second notice will be issued allowing an additional fifteen (15) days to correct the violation. After thirty (30) days, if the violation continues, a final notice will be issued giving the responsible party ten (10) days to correct the violation.

b. Failure to correct any violation and conform to the rules of the UDO will cause citations to be issued and delivered in the same manner as the notices.

c. If a violation then continues, a citation will be issued and delivered daily until the violation is corrected.

(4) Except as provided by NCGS 160D-1123, 160D-1206, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to NCGS 160D-405. Any appeal must be filed within 30 days of receipt of the first written notice of violation. If no appeal is filed, any and all available remedies may be pursued.

(c) *Remedies.* If any violation continues beyond 30 days of receipt of the first notice of violation, the Community Development Director, their designee or the County Attorney, in addition to other remedies, may institute any appropriate action or proceedings to:

(1) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

(2) Restrain, correct or abate the violation;

(3) Prevent occupancy of the building, structure or land; or

(4) Prevent any illegal act, conduct, business, or use in or about the premises.

(d) *Penalties.*

(1) Violation of any section of this chapter shall subject the offender to a civil penalty. The county will recover this penalty in a civil action if the offender does not pay the penalty within a period of fifteen (15) calendar days after being cited. The citation shall be in writing, signed by the Community Development Director or designated Code Enforcement Officer, and shall be delivered or mailed to the offender either at his residence or at his place of business or at the place where the violation occurred.

(2) Citations and fines shall be issued and levied according to the progress of notice Sec. 37.01(b)3b:

a.	First Citation	$75.00
b.	Second Citation	$150.00
c.	Third Citation	$300.00
d.	Daily Citation	$300.00 per day. Each day's continuing violation shall be a separate and distinct offense, subject to additional civil penalty and actions.

(3) All penalties and fines shall be cumulative.

[*Amended November 15, 2021*]

Sec. 37.02. - Subdivision violations.

(a) Appropriate actions and proceedings may be taken at law or in equity to:
  (1) Prevent any violation of this chapter;
  (2) Prevent unlawful construction;
  (3) Recover damages;
  (4) Restrain, correct or abate a violation; or
  (5) Prevent illegal occupancy of a building, structure or premises.

(b) *Building permits and utility connections.* No building permit or certificate of occupancy shall be issued nor shall water, sewer or other public facilities or services be extended to or connected to any land for which approval of a subdivision is required under this chapter unless all sections of this chapter are satisfied.

(c) *Penalties for selling lots in unapproved subdivision.* The owner or agent of the owner of any land to be subdivided within the area of jurisdiction of this chapter who transfers or sells such land by reference to or exhibition of or by any other use of a plat of a subdivision of such land, before such plat has been approved by the county shall be guilty of a misdemeanor. Upon conviction thereof, he shall be punished as provided by law. The description of the land by metes and bounds in the instrument of transfer shall not exempt the transaction from these penalties. Such transfer or sale may be enjoined by appropriate action. Nothing prohibits the owner or agent from entering into a contract to sell or lease a lot in conformance with G.S. 160D.

(d) *Penalty.* Any violation of this chapter or amendments thereto shall constitute a misdemeanor. Those convicted of such violations shall be punished as provided by law. Each day that a violation continues shall be considered a separate and distinct offense.

DIVISION 8. – DEVELOPMENT AGREEMENTS.

Sec. 38.01. - Purpose.

The purpose of this Article is to establish standards and procedures for the County to enter into Development Agreements for long-term, large-scale developments, in recognition of the following findings and statements of intent:

(a) *Large-Scale Development Projects and Long-Term Commitment of Resources*
Large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.

(b) *Potential Community Impacts*
Such large-scale developments often create potential community impacts and potential opportunities that are difficult or impossible to accommodate within traditional zoning processes.

(c) *Careful Integration between Public Capital Facilities Planning, Financing, Schedules*
Because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing and construction schedules and the phasing of the private development.

(d) *Stable Development Standards*
Because of their scale and duration, such large-scale projects involve substantial commitments of private capital by private developers, which private developers are unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(e) *Nontraditional Development Types*
Because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing the impacts on the surrounding areas.

(f) *Negotiating Flexibility*
To better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.

(g) *Plan Consistency*
In negotiating for such developments, it is the intent of the County to remain consistent with the adopted plans, policies, and goals of the County as they relate to land use and capital improvements.

Sec. 38.02. - Authority.

The County may enter into a Development Agreement with a developer, subject to the procedures and standards of this Article. In entering into such a Development Agreement, the County may not exercise any authority or make any commitment not authorized by state or local statute and may not impose any tax or fee not authorized by otherwise applicable law. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the Development Agreement

Sec. 38.03. - Relationship to Prior Development Approvals.

Although an application for a Development Agreement generally is submitted and reviewed before, or in conjunction with the first development approval required for the proposed development (e.g., a Mixed-Use Development), such an application may be submitted and decided at any stage of the development. If the application is submitted after development approvals have been granted, either the Development Agreement should incorporate the terms and conditions of those prior approvals or any approval of the Development Agreement shall be contingent upon any amendments to those prior approvals necessary to ensure conformance between the Development Agreement and applicable development approvals.

Sec. 38.04. - Initiation.

An application for a Development Agreement may be initiated by any person who may submit applications in accordance with the provisions of this Article.

Sec. 38.05. - Procedures.

(a) *Application Contents*

(1) An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, include all of the following:

a. A legal description of the property subject to the agreement and the names of its legal and equitable property owners.

b. The duration of the agreement.

c. A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.

d. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

e. A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.

f. If the Development Agreement provides that the County shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards).

g. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.

h. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.

i. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the County for the public health, safety, or welfare of its citizens.

j. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

k. An indemnification and "hold harmless" clause whereby the developer/property owner holds the County and its agents harmless from liability for damages, injury, or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

(2) The proposed Development Agreement may include the following:

a. A provision that the entire development or any phase of it be commenced or completed within a specified period of time.

b. Other defined performance standards to be met by the developer.

c. Other matters not inconsistent with law.

(3) The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.

(b) *Review and Report by County Manager*

As part of the staff review of the application, the County Manager or the Manager’s designee may negotiate revisions to the proposed Development Agreement consistent with the provisions of Subsection (G) Development Agreement Standards.

(c) *Review and Recommendation by Planning Board*
Following staff review, preparation of a staff report, and provision of public notification in accordance with Subsection (G) Development Agreement Standards, the staff shall recommend that:
(1) the County enter into the Development Agreement as submitted;
(2) the County enter into the Development Agreement application subject to modifications agreed to by the applicant, in writing; or
(3) the County not enter into the Development Agreement.

(d) *Review and Action by Board of Commissioners*
Following Planning Board review, the governing body shall conduct a legislative public hearing on the application in accordance with Article VII Section 7.10 Amendments of this Ordinance. Thereafter the Board may vote:
(1) To enter into the Development Agreement as submitted;
(2) To enter into the Development Agreement, subject to modifications agreed to by the applicant, in writing;
(3) Not to enter into the Development Agreement; or
(4) Remand the application to the Planning Board for further consideration.

DEVELOPMENT AGREEMENT PROCEDURES DIAGRAM

Sec. 38.06. - Recording the Agreement.
Within 14 days after entering into a Development Agreement, the County shall record the agreement with the Rockingham County Register of Deeds.

Sec. 38.07. - Development Agreement Standards.

In consideration of the County's participation in a Development Agreement, a development subject to the agreement must meet the following criteria:

(a) *Planned Development*
The information regarding the property subject to the Development Agreement shall contain details of the property and the planned development in accordance with NCGS 160D Article 10 Development Agreements.

(b) *Phasing and Duration of Development*
The development shall demonstrate phasing and participation in the proposed agreement shall be of reasonable terms that shall be specified in the agreement.

(c) *Impact on Capital Improvements*
The development shall demonstrate the impact on existing and future provisions of capital improvements by the County including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

Sec. 38.08. - Effect of Development Agreements.

(a) *Burdens and Benefits*
The burdens of the Development Agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

(b) *Rights and Obligations*
Rights and obligations established by a Development Agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans or other provisions of law.

(c) *Building Code*
A Development Agreement shall not exempt the property owner or developer from compliance with the State Building Code.

(d) *Subsequently Enacted Laws*
Unless the Development Agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a Development Agreement are those in force at the time of execution of the agreement.

(e) *Application of Subsequently Adopted Laws*
Except for grounds specified in Section 160D-1-(e) of the North Carolina General Statutes, the County may not apply subsequently adopted ordinances or development policies to a development that is subject to a Development Agreement.

(f) *Change in State or Federal Law*
If State or Federal law is changed after a Development Agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the Development Agreement, the County, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the Development Agreement.

(g) *Vested Rights*
This Ordinance does not abrogate any rights preserved by NCGS 160D-1-8, or that may vest pursuant to common law or otherwise in the absence of a Development Agreement.

Sec. 38.09. - Approval of Debt.

If any of the obligations of the County in the Development Agreement constitute debt, the County shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against

the County, with any applicable constitutional and statutory procedures for the approval of this debt. The agreement shall be signed by the County Attorney, Finance Director, and County Manager.

Periodic Review and Breach of Agreement

(1) *Annual Review*
During any period of time in which a development permit is active, the County shall review the development at least once every 12 months for compliance with the agreement. The developer shall be required to demonstrate good faith compliance with the terms of the Development Agreement. The failure to meet a commencement or completion date specified in the Development Agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.

(2) *Material Breach*
If the County finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the County shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and shall provide the developer a reasonable time in which to cure the material breach.

(3) *Failure to Cure Material Breach*
If the developer fails to cure the material breach within the time given, then the County unilaterally may terminate or modify the Development Agreement.

(4) *Appeal*
The notice of termination or modification may be appealed to the Board of Adjustment for review and decision in accordance with Section 7-13(D Appeals.

Sec. 38.10. - Amendments to Development Agreement.

(a) *Mutual Consent*
A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

(b) *Major Modification*
Consideration of a proposed major modification of a Development Agreement shall follow the same procedures as required for initial approval of the agreement.

(c) *Minor Modification*
The Community Development Directir may approve minor modifications of the Development Agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

Sec. 38.11. - Assumption of Jurisdiction Over Development Agreements.

(a) *County Assumes Planning Jurisdiction*
If the County assumes planning jurisdiction over property subject to a Development Agreement established by another jurisdiction, such development agreement shall be valid for the duration of the agreement, or eight years from the effective date of the County's assumption of planning jurisdiction over the subject property, whichever is earlier.

(b) *Rights and Obligations*
The parties to the development agreement and the County shall have the same rights and obligations

with respect to each other regarding matters addressed in the Development Agreement as if the property had remained in the previous jurisdiction.

(c) *Modification or Suspension*

The County may modify or suspend the provisions of the Development Agreement if the County determines that the failure to do so would place the residents of the area subject to the Development Agreement, or the residents of the County's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

ARTICLE IV. – ESTABLISHMENT OF DISTRICTS

DIVISION 1. – Districts

Purpose: This article divides the county into various districts for purposes of zoning, watershed protection, flood plain management and flood damage prevention, airport management, and voluntary agriculture conservation. Within each district, this article describes the permitted uses or building types, densities, intensities, and dimensional standards such as setbacks, and permitted height. The purpose of this article is to implement the county's land use plan, protect neighborhoods, provide for economic development, and promote general health, welfare and safety.

(a) *Zoning districts.* The following zoning districts are established by the county:

Table 400-1. Zoning Districts Established

General Zoning Districts		
Residential-Agriculture (RA)	Neighborhood Commercial (NC)	Highway Commercial (HC)
Residential-Protected (RP)	Rural Commercial (RC)	Light Industrial (LI)
Residential-Mixed (RM) (revised 08/16/2021)	Office-Institutional (O-I)	Heavy Industrial (HI)
Manufactured Home District (MHD) (08/16/2021)		
Overlay Districts		
Floodplain Management Overlay (FPM-O)	Jordan Lake Riparian Overlay District (JP-O)	Watershed Protection (WP-O)
Airport Hazard (AH-O)		
Special Districts		
Planned Unit Development (PUD)	Voluntary Agricultural District (VAD/EVAD)	

(b) *Conditional Zoning districts.* This chapter establishes Conditional Zoning districts that correspond to the general zoning districts. The Conditional Zoning districts have the same name as the general and zoning district designation along with the designation -CD. For example, a Conditional Zoning district that corresponds to Neighborhood Commercial (NC) has the designation NC-CD.

(c) *Overlay districts.* The overlay districts designated in subsection (a) may impose greater restrictions, require higher development standards, prohibit certain uses, and require additional approvals, as stated in the overlay district regulations.

(d) *Special districts.* The PUD special district serves as optional zoning district providing flexibility for developing for a mix of uses not provided for within other general use districts.

Sec. 41.01. - General use zoning districts

(a) RA Residential Agricultural District

(1) The Residential Agriculture (RA) district is established in areas that are characterized by large lots, clustered subdivisions, agricultural uses and open lands. These areas may include prime farmland and unique topographical or environmental restrictions that are remote from existing developed areas. These areas represented non-target growth areas where limited public water and no public sewer utilities are available. This district promotes rural development patterns that are characterized by the following:

a. Low densities, including large lots or clustered lots that are surrounded by contiguous swaths of natural areas or agricultural land.
b. Setbacks and lot characteristics that are consistent with the existing, natural terrain.
c. Narrow, winding streets that follow the natural topography.
d. Natural or agricultural areas with preponderance of agricultural activities and forested lands.

(2) The RA district carries forth the principles associated with the preservation and conservation of rural lands throughout the county where low density is desirable in order to protect environmentally sensitive areas, agricultural areas, and viewsheds.
(3) Major subdivisions with 100 or more lots are not permitted in RA.

(b) RP Residential Protected District

(2) The purpose of this district is to provide a place for low density single-family residential uses where manufactured homes and most commercial uses are not allowed.

(c) RM Residential Mixed District

(1) The purpose of this district is to provide a place for medium to high density residential uses, allowing for a mix of housing types where public water and sewer facilities are available The RM district carries forth the principles associated with encouraging a mix of housing types within the County's target growth areas where public water and sewer utilities are available. These districts serve as transitional areas between commercial uses and lower density residential uses. RM is not appropriate for large multi-family dwelling complexes or commercial uses, but rather a range of housing types identified as the "missing-middle" within the County's land use plan.

(d) RC Rural Commercial District

(1) This district provides areas for small offices, services, and retail uses, all designed in scale with surrounding residential and agricultural uses. The district regulations are designed to protect and encourage the transitional character of the district by permitting uses and building forms that are compatible with the rural areas of the county. This district establishes setback and area standards that are compatible with residential neighborhoods.

(e) NC Neighborhood Commercial District

(1) This district provides a place for low to medium intensity crossroads shopping and neighborhood centered shopping establishments.

(f) OI Office and Institutional District

(1) Purpose: The OI district provides for office, institutional, civic, or other low intensity commercial uses. This district may buffer single-family residential neighborhoods from higher intensity residential neighborhoods or adjacent commercial districts.

(g) HC Highway Commercial District

(2) This district provides areas for more intensive regional highway-oriented business, office, service and civic uses. The district regulations are designed to protect and encourage the transitional character of the districts by permitting uses and building forms that are compatible with the surrounding area.

(h) LI Light Industrial District

(1) The light industrial (LI) district permits light manufacturing, processing and assembly uses, warehousing, distribution and servicing enterprises and limited office activities. This district supports the county's policies to promote economic development opportunities.

(i) HI Heavy Industrial District

(1) This district provides for intensive manufacturing, processing and assembly uses whose normal operations may include dust, noise, odor, or other emissions. This district promotes the county's policies to promote economic development opportunities. The uses permitted in this district may be very intensive, with their impacts controlled by performance or design standards.

(a) MHD Manufactured Home District

(1) The purpose of this district is to provide a place for major subdivisions where homes are constructed to federal HUD construction standards rather than to that of the NC Residential Building Code.

Sec. 41.02. - Zoning map

The official zoning map is maintained electronically by the county geographic information systems (GIS) department.

(a) *Adoption of official zoning map.* The official zoning map is adopted by reference and declared to be part of this chapter. Maps that are so adopted shall be maintained for public inspection by the Community Development Director and in digital format on the County website. Where boundaries and designations are not shown directly on the basic map sheets, they are indicated by overlays to such sheets or as separate maps. Overlays or separate maps have the same force and effect as the basic map sheets.

(b) *Inset maps.* Where the scale of the basic map sheets or supplemental maps are inadequate for presentation of details in particular areas, such areas may be cross referenced on the basic map sheets or included on supplemental maps or separate inset maps at an appropriate scale.

(c) *Official zoning map amendment, updating and authentication.* The official zoning map shall be amended, updated and authenticated as follows:

(1) *Amendment.* The official zoning map is subject to amendment as outlined in Article III – Procedures, Division 3 – Zoning Procedures. Any proposed amendment shall be identified by reference to the map sheet and/or supplement, and a legal description or other property identification or such other information as is required to make specific the application of the amendment. Following any map amendments, prior zoning maps will be archived and made available for public inspection by the Community Development Director (in conjunction with GIS) pursuant to NCGS 160D-105.

(2) *Updating.* Zoning map amendments shall be updated on the official zoning map by the Community Development Director, in conjunction with GIS.

(3) *Authentication of amendments.* Amendments shall be authenticated by the Community Development Director on map sheets, supplements, schedule sheets affected, and a record of the nature and date maintained. The entries shall indicate the date the amendment was made, the date the change became effective, if other than the date of the actual approval, the number of the amending chapter, and an indication of the nature of the change sufficient to facilitate specific identification.

(4) *Unauthorized changes prohibited.* No changes of any nature shall be made in the official zoning map, except as set forth in this chapter. Any unauthorized changes by any person is a violation of this chapter and punishable as provided by law. This subsection does not preclude action under other applicable criminal state statutes against any person alleged to have made unauthorized changes in this chapter.

(5) *Final authority for official zoning map.* Regardless of the existence of purported copies of all or part of the official zoning map which may from time to time be made, published, or reproduced, the official zoning map is the final authority as to the current zoning status of all lands and waters within the zoning jurisdiction of the county.

(6) *Copies.* Copies of the zoning district map reproduced by any method of reproduction that gives legible and permanent copies, when certified by the County Clerk in accordance with NCGS 160A-79 or 153A-50, shall be admissible in evidence and shall have the same force and effect as would the original map.

(7) *Referencing State and Federal maps.* The official zoning map may reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and Federal agencies. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection.

Sec. 41.03. - Boundaries of districts.

(a) *District symbol on official zoning map.* A district symbol or name shown within district boundaries on the official zoning map indicates that district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line, except as otherwise specifically provided.

(b) *Uncertainty as to boundaries.* Where uncertainty exists as to boundaries of districts or other areas delineated for regulatory purposes in the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of streets, alleys, rights-of-way or easements shall be construed as following such centerlines as they exist on the ground. If a right-of-way is abandoned, the boundary remains in its location.

(2) Boundaries indicated as approximately following boundaries of streets, alleys, other public or private property lines, rights-of-way, or easements shall follow such boundaries.

(3) Boundaries indicated as approximately following mean high-water lines or centerlines of rivers, lakes, coves or other bodies of water shall be construed as following such mean high-water lines or centerlines. If the mean high-water line or centerline changes, the boundary shall be construed as moving with the change.

(4) Boundaries indicated as approximately parallel to or extensions of features described in subsections (1), (2), and (3) above shall be construed as being parallel to or extensions of such features.

(5) Where distances are not specifically indicated on any map in the official zoning map, they shall be determined by reference to the scale of the map.

(6) Boundaries indicated as entering any body of water, but not continuing to intersect with other zoning boundaries or with the limits of the jurisdiction of the county, shall be construed as extending, in the direction in which they enter the body of water, to intersect with other zoning boundaries or with the limits of county jurisdiction.

(7) Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, the parcel shall be classified to conform to the district which surrounds it or which is most restrictive adjacent to it, until changed after a public hearing.

(8) Where remaining uncertainty or conflict occurs:

a. In other circumstances not covered in this section where existing natural or manmade features are at variance with those shown in the official zoning map, where the official zoning map is illegible or unclear, where interpretation based on such rules would produce contradiction or conflict with the intent of this chapter, or upon request from the Community Development Director or an affected property owner, the Board of Adjustment shall make a

finding and interpretation concerning the boundaries involved in accordance with the intent and purpose of this chapter.

b. When such finding and interpretation involve only correction to the official zoning map or any official supplement and do not change the zoning of any lot, the board of commissioners may direct corrections without proposing an amendment to the map involved. When the zoning of any lot would be changed by such correction, the board of commissioners shall initiate a proposed corrective amendment.

(9) Where the rules of interpretation set forth in subsections (1), (2), and (3) above would produce a variation of the actual location from the mapped location and this would change the zoning status of a lot or parcel, the boundary shall be interpreted to avoid such change.

(c) *Action where a zoning lot contains two or more zoning district designations.* Where a zoning lot contains two or more district designations, the regulations specific to each zoning district govern the areas designated by the official zoning map.

Sec. 41.04. - Table of Permitted Uses

(a) The permitted use and structures within each zoning district are shown in Table 41.04 -1, Use Matrix.

(b) Uses allowed in the Planned Unit Development (PUD) District are regulated by Section 43.03

(c) Uses or structures that are not expressly listed in the use matrix or throughout this chapter are permitted in districts where similar uses are permitted. The Community Development Director may determine that a use is materially similar if:

(1) The use is listed within the same structure or function classification as the use specifically listed in the use matrix, as determined by the land-based classification standards (LBCS) of the American Planning Association; or

(2) If the use cannot be located within one of the LBCS classifications pursuant to subsection (1) above, the Community Development Director shall refer to the most recent version of the North American Industry Classification System (NAICS), published by the Executive Office of the President, Office of Management and Budget.

(d) The letter symbols in Table 41.04 -1 have the following meanings.

The letter…	Has the following meaning …
P	*Permitted uses.* The letter "P" indicates that the listed use is permitted by-right within the zoning district.
D	*Development Standards.* The letter "D" indicates that the listed use is permitted by-right within the zoning district, but requires that referenced development standards are met.
S	*Special uses.* The letter "S" indicates that the listed use is permitted within the respective zoning district only after review and approval of a special use permit.
A	*Accessory uses.* An "A" indicates that the listed use is permitted only where it is accessory to another use that is permitted in the district on the same lot.
T	*Temporary Uses.* A “T” indicates a use that is permitted as a temporary use.
	Prohibited uses. A blank cell indicates that the use is not permitted in the district or a zoning procedure is required for approval as listed in the reference column.

(e) All uses are subject to Development Standards found in Article V. Some uses may also be subject to Supplemental Regulations found in Article VI. The reference column in table 41.04-1 indicates the article, division or section of this chapter where supplemental regulations are required for the specific use.
(f) Permitted Uses (P) may be subject to supplemental regulations found in Article VI Division 2.
(g) Uses requiring a Special Use Permit (S) are subject to supplemental regulations found in Article VI Division 3 and those requirements that may reasonably be imposed by the permitting authority.
(h) All uses are subject to all other applicable standards of this UDO in addition to those referenced in this table

Table 41.04-1. Permitted Uses Table											
USE TYPES	**RA**	**RP**	**RM**	**OI**	**RC**	**NC**	**HC**	**LI**	**HI**	**MHD**	**REF**
Accessory structure	A	A	A	A	A	A	A	A	A		62.02
Adult uses							S		S		62.03
Agricultural machinery and farm implement sales and repair					P			P	P		
Agricultural uses (unregulated)	P	P	P	P	P	P	P	P	P		
Agriculture related research and development	P				P			P	P		
Agritourism Activities (regulated, not applicable to exempt farms)	D		D		D	D	D				62.04
Airport/airstrip/runway/taxiway	S							S	S		63
Amusements, indoor commercial (e.g. bowling alleys, skating rinks)						P	P	P	P		
Amusements, out-of-doors commercial (e.g. roller coasters, fairgrounds)							P	P	P		
Animal Facility - Kennel (8 or less domesticated animals)	D				D	D	D	D	D		62.05
Animal Facility - Kennel (more than 8 domesticated animals)	S				D	D	P	P	P		62.05
Animal Facility – public stable	D				D						62.06
Animal hospital/ veterinary clinic							D	D	D		62.07
Apparel and accessory sales						P	P				
Asphalt Plant									S		63
Assembly/theater facility—Outdoor or drive-in							D	D	D		62.08
Athletic fields, parks, recreation buildings, playgrounds, swim and racquet clubs (no commercial gain)	P	P	P	P	P	P	P	P	P	P	62.09
Auction sales, yards, permanent							P	P	P		
Auction sales, temporary, one-time use	P	P	P	P	P	P	P	P	P		
Automobile car-wash, drive through, requiring vehicle queueing						P	P	P	P		
Automobile parts sales						P	P	P	P		
Automobile sales, rentals						P	P	P	P		
Automobile service/repair stations						P	P	P	P		
Automobile storage (excluding wrecked & junked vehicles)							P	P	P		

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Automobile, truck and trailer (hauling) rental						P	P	P			
Automated bank teller/ ATM, portable concession stands, ice machines					A	A	A	A	A		62.13
Banks & Savings and Loans				P		P	P	P	P		
Barber and Beauty Service				P	P	P	P	P	P		
Bed & Breakfast Home	S	S	S			P	P	P	P		62.14
Beer, wine and liquor store							P	P	P		
Boats, Recreational Vehicles Sales and Service							P	P	P		
Boats, Recreation Vehicles, Outdoor Storage (primary use, short-term)					P	P	P				
Bottling Plants							P	P	P		
Brewery, Winery, Distillery	D					D	P	P	P		62.15
Brick and Tile Manufacturing									S		63
Bulk Inflammables Storage Facility (propane, gasoline, fuel oil and natural gas)									S		63
Bus Station							P	P	P		
Campground / Recreational Vehicle Park	D				D		D				62.16
Car Wash						P	P	P	P		
Car Wash, drive-through							P	P	P		
Care Facility, Day – child, adult				D		D	D				62.17
Care Facility -- Hospice house/palliative	D			P							62.18
Cement Manufacturing									S		63
Cemetery, human (public)	D		D		D	D					62.19
Cemetery, pet (public)	D		D		D	D					62.19
Chemical Manufacturing and Storage Facility									S		63
Cement Manufacturing									S		63
Club and lodges, private, non-profit	P	P	P	P	P	P	P	P	P		
Clubs and places of entertainment (commercial)							P				
Clinics, medical, dental				P		P	P	P	P		
Coin-operated laundry						P	P	P	P		
Community centers, public or private non-profit, for assembly and recreation	P	P	P	P		P	P				
Commercial Feeder Operation	S							D	D		62.24
Commercial Incinerators									S		63
Commercial Livestock Sales and/or Auction									S		63

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Concrete suppliers (ready-mix)									S		63
Conference/retreat/event/reception/banquet center	S			D	S	P	P				62.25
Construction Trailer (Class AA, A or B), temporary use				T		T	T	T	T		62.26
Convenience food stores with or without gas pumps						P	P	P	P		
Cottage Business	D	D	D								62.27
Dairy products, wholesale and processing								P	P		
Drag strip / race track								S	S		62.28, 63
Dry Cleaning or laundry (not coin-operated)						P	P	P	P		
Drive-through window services (banks, laundries, fast-food, etc.) where use is permitted in district				P		P	P	P	P		
Dwelling, accessory unit	D	D	D								62.01
Dwelling, multi-family triplex, quadplex, and townhomes.			P				P				
Dwelling, multi-family apartments, condominiums							P				
Dwelling, single-family detached	P	P	P				P				
Dwelling, two-family (duplex)	P	P	P				P				
Dwelling, Class AA manufactured home	D		D							D	62.53
Dwelling, Class A manufactured home	D		D							D	62.53
Dwelling, Class B manufactured home										D	62.53
Dwelling, manufactured home (Class AA, A or B), temporary use – for Custodial Care	D										62.51
Dwelling, manufactured housing on lot during construction of new dwelling	D										62.50
Electronic Gaming Operations							P				
Equipment Rentals							P	P	P		
Explosives Manufacturing, Storage and Wholesale									S		63
Exterminating services						P	P	P	P		
Family care home	D	D	D								62.35
Farm machinery sales and rentals with repair					P		P	P	P		
Farm supplies sales (feed, seed, fertilizer etc.)	P				P		P	P	P		

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Farmers markets (may include sale of locally made craft items)				P	P	P	P	P	P		
Fire, sheriff and emergency services	D	S	S	P		P	P	P	P		62.33
Flea markets – indoor						P	P	P	P		
Flea markets – outdoor							D	P	P		62.36
Florists				P		P	P	P	P		
Food freezer operations							P	P	P		
Foundries, metal									P		
Funeral home, crematorium				P		P	P	P	P		
Furniture manufacturing								P	P		
Garbage Disposal Services								P	P		
Gift Shops				P		P	P				
Golf, Miniature					P	P	P				
Golf Courses with or without ranges	P	P	P								
Golf ranges							P	P	P		
Government Offices				P		P	P	P	P		
Greenhouse, commercial	D					D	D	D	D		62.37
Greenhouse, private	A	A	A	P	P	P	P	P	P		
Grain and Grist Mills					P	P	P	P	P		
Grocery stores						P	P	P	P		
Group Homes (more than 6 living as a family with manager on-site)	S			S		S					62.38
Guest House	D	D	D								62.39
Hardware, Paint & Garden Supplies						P	P	P	P		
Hazardous Waste Facilities									S		63
Health club, gym				P		P	P	P	P		
Home Furnishings & Appliance Sales						P	P	P	P		
Home health & home care agencies				P		P	P	P	P		
Home Improvement Stores							P	P	P		
Home Occupations	D	D	D			D	D				62.43
Homeless Shelter				S							62.44
Hospital/medical facility				S	P	P	P	P	P		62.45
Hotels & Motels						P	P				
Industrial Equipment Sales & Service							P	P	P		
Industrial and manufacturing uses not otherwise specified								S	S		63
Jewelry Store						P	P	P	P		
Junk yards, scrap metal salvage yards, Junk yards (600 sq. ft. or more in size)								S	S		62.46, 63

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Laboratory, Medical & Dental				P		P	P	P	P		
Laboratory, Research				P			P	P	P		
Landfill, beneficial fill	D	D		D	D	D	D	D	D		62.47
Landfill, land-clearing and inert debris (LCID)	S							S	S		62.48
Landfill, sanitary/ solid waste	S							S	S		63
Library, Public	P			P		P	P	P	P		
Live/work unit				A	A	A	A	A			
Locksmith, Gunsmith (not as home occupation)						P	P	P	P		
Lumber yard	P							P	P		
Machine shop, welding shop							P	P	P		
Manufactured Home Park										S	62.49
Manufactured home, travel trailer, camper, marine, and recreational vehicle sales							P	P			
Manufactured home, temporary custodial care	D	D	D								62.51
Manufactured home, temporary during residential construction	D	D	D								62.50
Manufacturing, apparel, soft goods, textiles								P	P		
Manufacturing and wholesale trade processing agricultural products					P			P	P		
Manufacturing, machine tools, fertilizer, wood products								S	S		63
Meatpacking plants									P		63
Mining of earth products (rock & stone)									S		63
Mining of earth products (sand, soil, clay)	S							S	S		62.57
Mini-warehouse							D	D	D		62.56
Mobile Food Vendor, Temporary				D	D	D	D	D	D		62.58
Monument and Cut Stone Manufacture and Sales							P	P	P		
Motor Sports									S		63
Movie theater, indoor						P	P	P	P		
Museum	D					P	P	P			62.59
Nursery and plant cultivation	P			P	P	P	P	P	P		
Nursery/landscaping business, commercial	S				D	D	P	P	P		62.63
Nursing and rest homes	S			D		D	D				62.64
Offices, professional private and public				P	P	P	P	P	P		
Office Supplies Sales						P	P	P	P		

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Outdoor Display Area (Non-residential)				D	D	D	D	D	D		62.65
Outdoor Storage Area (Non-residential)				D	D	D	D	D	D		62.66
Outdoor Storage Area (Residential)	D	D									62.67
Paintball/Airsoft Facility (Outdoor)	S						S	S	S		62.68
Pawnshop							P	P	P		
Pet Shop						P	P	P	P		
Pharmacy and drug store						P	P	P	P		
Places of worship and their customary uses, including childcare on premises	P	P	P	P	P	P	P	P	P		
Poultry Breeding Facility (dry litter)	P							P	P		62.69
Post Office				P		P	P	P	P		
Pottery Crafting and Sales	P			P	P	P	P	P	P		
Printing and Reproduction				P		P	P	P	P		
Produce/Roadside Stand	P	P	P		P	P					
Public utility, major (including public water/sewer plants)	S	S		S	S	S	S	S	S		62.73
Public utility, minor	D	D	D	D	D	D	D	D	D		62.73
Pulp and Paper Mills									S		63
Radio, media, television studio						P	P	P			
Recreational Vehicle, temporary stay during new home construction	D	D	D								62.74
Retail shops not exceeding 3,000 square feet of gross floor area and whose primary sales are agriculture related items, antiques, artisan gallery or studio, locally made crafts, items related to rural tourism, outdoor recreation and sporting goods equipment					P	P	P	P	P		
Retail sales not listed elsewhere						P	P	P	P		
Repair, rental and service of products sold at retail in same district where use is permitted					P	P	P	P	P		
Restaurant						P	P	P	P		
Restaurant, excluding drive-in and fast food				P	P	P	P	P	P		
Riding academy, commercial stables	P				P						

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Rural family occupation of nonagricultural nature					P	P	P	P			
Rural Guest Establishment	D										62.75
Rural Tourism Activities	D	S			D						62.76
Sales Office/Model dwelling unit	D	D	D			D					62.77
Sawmills, planing mills - permanent									S		63
Sawmills, portable	T				T		T	T	T		
Sanitary Landfill											62.78
Schools, academic/ business/trade	S	S		D		D					62.79
Service establishments including but not limited to barber and beauty shops, small item repair and rental				P	P	P	P	P	P		
Service stations						P	P	P	P		
Sheet metal fabrication								P	P		
Shipping/Storage Container for Non-Residential Outdoor Storage	D	D	D	D	D	D	D	D	D		62.81
Shooting Range/Shooting Range Complex (Indoor/Outdoor)	S							S	S		62.82, 63
Short-term Rentals	P	P	P								
Sign, outdoor advertising (off - premises)							P	P	P		
Sign, on premises	P	P	P	P	P	P	P	P	P		
Skeet, Trap, and Sporting Clay Ranges	S										62.83
Slaughtering and Processing Plants									S		63
Social Services Centers				P		P	P	P	P		
Solar energy facility	S				S						62.84
Special Event Permit	D	D	D	D	D	D	D				62.85
Stand-Alone Storage Unit	D										62.85
State Licensed Uses*				S		S	P	S	S		
Studios for artists, designers, musicians, photographers, sculptors (not as a home occupation)				P		P	P	P	P		
Tailor, sewing shop						P	P	P	P		
Taxi stand, including ride sharing						P	P	P	P		
Temporary buildings, incidental to development	T	T	T	T	T	T	T	T	T		
Temporary carnivals, rides, amusements							T	T	T		

USE TYPES	RA	RP	RM	OI	RC	NC	HC	LI	HI	MHD	REF
Temporary Storage Unit	T	T		T	T	T	T	T	T		
Use of Open Land (see definitions)	P										
Tire recapping								P	P		
Tobacco Related warehousing and wholesales								P	P		
Townhomes/condominiums, commercial					P		P				
Turkey shoots (associated with non-profit organizations)	D			D	D						62.87
Turkey shoots (for profit, year-round)	S				S		S	S			62.87
Upholstering and furniture refinishing						P	P	P	P		
Warehouses, sales or service							P	P	P		
Wholesale sales, not otherwise listed							P	P	P		
Wireless Telecommunications Facilities, colocation	D			D			D	D	D		62.88
Wireless Telecommunications Facilities, co-location	S			S			S	S	S		62.88

*Allow the use and operation of businesses licensed by the State, as defined and authorized by the State of North Carolina through license issued by a state agency, or other agency or commission designated by the State.

See Section 43.03. Sec. 43.03.02. - General Criteria and Minimum Standards for uses permitted in the Mixed-Use Conditional Zoning District

Sec. 41.05. - Dimensional Requirements

(a) *Calculation and rounding of requirements.*

(1) When making calculations as directed in this chapter, for example, off-street parking requirements, round to the next highest whole number.

(2) No portion of a lot used in connection with an existing or proposed building, structure or use and which is necessary for compliance with the area, height and/or placement regulations of this chapter shall, through sale or otherwise, be used again as part of the lot required in connection with any other building, structure, or use.

(b) *Dimensional standards.* Except as specifically provided in this chapter, regulations governing the density, maximum permitted floor area ratio, minimum lot size and width, required front, side and rear setbacks, maximum permitted height of structure, and gross leasable area are shown in table, 41.05-1 dimensional standards.

Dimensional Requirements for Residential Districts				
	RA*	RP	RM	MHD
Density Average (dwelling units per acre)				
without public water or sewer	1.45	1.45	1.45	1.45
with public water or sewer	1.7	1.7	1.7	1.7
with public water and sewer**	1.7	5	6	6
Minimum Lot Size (individual lots or minor subdivisions) †	35,000	30,000	25,000	25,000
Min. Lot Width at Building Line	100	50	50	50
Min. Street Frontage				
Cul-de-Sac Lot	25	25	25	25
All Other Roads	50	40	40	50
Min. Street (front) Setback				
	35	30	25	25
Roadway Higher than 55 MPH	Add 50%	Add 50%	Add 50%	Add 50%
Min. Interior Setback ‡				
Side	10	10	10	10
Rear	20	15	15	15
Street Side/Corner	20	20	20	20
Accessory Building (side/rear)	10	10	10	10
Max. Building Height	35	35	35	35

Dimensional Requirements for Non-Residential Districts						
	RC	NC	OI	HC	LI	HI
Min. Lot Size	20,000	20,000	20,000	20,000	20,000	20,000
Min. Lot Width	50	60	60	60	60	60
Min. Street Frontage	50	60	60	60	60	60
Min. Street Setback						
Two Lane State Maintained Road	30	30	30	30	30	30
Roadway - Three Lanes or More	50	50	50	50	50	50
Min. Interior Setback						
Abutting Non-Residential Zoning	15	15				
Abutting Residential Zoning	30	30	30	50	50	50
Max. Building Height	50	50	50	50	50	50

NOTES TO TABLE
*Rezoning to RP or RM is required for major subdivisions with 100 lots or more
**To obtain public water/sewer rezoning to RM or RP is required
† Minimum lot size applies only to individual lots, on a parcel by parcel basis, or as part of a minor subdivision. Existing parcels as of [the date of this amendment] are exempt from this rule.
‡ Townhomes are exempted from the side yard setback requirements where shared walls adjoin.

(From Sec. 42.02.11. Watershed Areas)

Rockingham County is home to several protected drinking water watersheds and a portion of the protected Jordan Lake watershed. Within these areas, watershed rules also determine minimum lot sizes, allowed uses and density limitations. The table below summarizes minimum lot sizes and impervious surface area limitations within each type of watershed located in the county, except for the Jordan Lake Protected Watershed, which only deals with riparian buffer requirements. Where noted, Critical Areas (CA) are those lands within a protected watershed generally located within one half-mile of a drinking water intake. Because the potential impacts of pollution or contamination are significantly greater in Critical Areas, regulations tend to be stricter. Balance of Watershed Areas (BW) are located further away from drinking water intakes, make up the majority of lands located in protected watersheds, and are less strictly regulated. In WS IV Balance of Watershed (BW) areas, the residential and nonresidential impervious surface area limitation is 24% on a parcel by parcel basis with curb and gutter systems. This allowance increases to 36% where development does not include curb and gutter systems. Built-upon limitations shall be calculated using the total acreage of the parcel on which development is proposed. For example, residential development on a one-acre lot (43,560 sq ft) in the critical area of the Troublesome Creek protected watershed will equal 5,227 sq ft (43560 x 0.12 = 5,227). For complete information, the Watershed Ordinance can be found in *Section 42.02* of this UDO.

Protected Watershed	Drinking Water Area	Residential Minimum Lot Size*	Built-Upon Surface Limitation
Country Line Creek WS II BW		43,560 sq ft	12%
Troublesome Creek WS III CA	Reidsville	80,000 sq ft	12%
Troublesome Creek WS III BW		40,000 sq ft	24%
Dan River Eden WS IV CA	Eden	21,780 – 30,000 sq ft	24%
Dan River Eden WS IV BW		21,780 – 30,000 sq ft	24%/36%
Dan River Madison WS IV CA	Madison	21,780 – 30,000 sq ft	24%
Dan River Madison WS IV BW		21,780 – 30,000 sq ft	24%/36%
Haw River WS IV BW		21,780 – 30,000 sq ft	24%/36%
Mayo River WS IV CA	Mayodan	21,780 – 30,000 sq ft	24%
Mayo River WS IV BW		21,780 – 30,000 sq ft	24%/36%
Smith River WS IV CA	Eden	21,780 – 30,000 sq ft	24%
Smith River WS IV BW		21,780 – 30,000 sq ft	24%/36%

* Min. lot sizes vary based on the availability of public water/sewer vs. need for septic system

[Amended September 19, 2022 / Effective February 1, 2023]

DIVISION 2. – OVERLAY DISTRICTS

Sec. 42.01. - Floodplain Management Overlay (FPM-O).

Purpose: The flood hazard areas in the jurisdiction of Rockingham County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary pubic expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. 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 by uses vulnerable to floods or other hazards. The purpose of this chapter is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) *Restrict or prohibit uses which 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 floodwaters;*
(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 floodwaters or which may increase flood hazards to other lands.*

The objectives of this section are:

(1) *To protect human life, safety and health;*
(2) *To minimize expenditure of public money for costly flood control projects;*
(3) *To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
(4) *To minimize prolonged business losses and interruptions;*
(5) *To 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) *To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and*
(7) *To ensure that potential homebuyers are aware that property is in a special flood hazard area.*

Sec. 42.01.01. - Statutory authorization.

The state has, in G.S. 143-215.51; G.S. 160D, and G.S. 153A-121 delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Sec. 42.01.02. - Effect upon outstanding floodplain development permits.

Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of any development, or any part for which a floodplain development permit has been granted by the Community Development Director before the time of passage of this chapter; provided, however, that if construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, the construction or use shall be in conformity with the provisions of this chapter.

Sec. 42.01.03. - General provisions.

(a) *Lands to which this chapter applies.* This chapter shall apply to all special flood hazard areas (SFHA) within the jurisdiction of the county.

(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 and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM) for Rockingham County dated July 3, 2007, which are adopted by reference and declared to be a part of this chapter.

(c) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas.

(d) *Compliance.* No structure or land shall be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(f) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the Board of Commissioners; and

(3) Deemed to neither limit nor repeal any other powers granted under state statutes.

(g) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter 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 chapter shall not create liability on the part of the county or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Sec. 42.01.04. - Definitions.

Unless specifically defined below or in the Unified Development Ordinance Appendix, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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

Appeal. A request from a review of the Community Development Director's interpretation of any provision of this chapter.

Area of shallow flooding. A designated AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard. See "special flood hazard area (SFHA)."

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). 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."

Building. See "structure."

Chemical storage facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Development. Any manmade 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.

Disposal defined as in G.S. 130A-290(a)(6).

Elevated building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, pies, pilings, or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
Existing manufactured home park or manufactured home subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are 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.* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation or runoff of surface waters from any source.
Flood boundary and floodway map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodway 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). An official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the special flood hazard areas have been designated as zone A.
Flood insurance. The insurance coverage provided on the National Flood Insurance Program.
Flood insurance rate map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.
Flood insurance study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRM) and flood boundary and floodway maps (FBFM) if published.
Flood prone area. See "floodplain."
Floodplain or *flood prone area.* Any land area susceptible to being inundated by water from any source.
Floodplain development permit. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.
Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
Floodplain management regulations. This chapter, building code, health regulations, special-purpose chapters of the County Code, 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. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.
Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
Flood zone. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.
Floor. The top surface of an enclosed area in a building, including basement, for example, the top of slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Freeboard. The height added to the base flood elevation (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 openings, and the hydrological effects of urbanization of the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

Functionally dependent facility. 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. This term does not include long-term storage, manufacture, sales or service facilities.

Hazardous waste management facility. A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in G.S. chapter 130A, article 9.

Highest adjacent grade (HAG). The highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.

Historic structure. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior 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 CLG program.

Certified local government (CLG) programs are approved by the U.S. Department of 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 amendment (LOMA). A letter provided by FEMA certifying the property is not in the floodplain.

Lowest adjacent grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For zones A and AO, use the natural grade elevation prior to construction.

Lowest floor. 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 chapter.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel, or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. (Also see new manufactured home park.)

Market value. The building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (actual cash value), or adjusted tax assessed values.

Mean sea level. For the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum

use as a reference for establishing varying elevations within the floodplain to which base flood elevations (BFE) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.
New construction. 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.
Nonconforming building or development. Any legally existing building or development which fails to comply with the current provisions of this chapter.
Non-encroachment area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.
Community Development Director. The individual appointed to administer and enforce the floodplain management regulations.
Post-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map.
Pre-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map.
Principally above ground. At least 51 percent of the actual cash value of the structure is above ground.
Public safety and/or nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
Reference level. The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.
Regulatory flood protection elevation. The elevation, in relation to mean sea level, to which the reference level of all structures and other development located within special flood hazard areas must be protected. Where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus two feet of freeboard. Where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.
Remedy a violation. 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 chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
Salvage yard. Any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.
Solid waste disposal facility. Any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).
Solid waste disposal site. Any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method, as defined in G.S. 130A-290(a)(36).
Special flood hazard area (SFHA). The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in subsection 429.04(b) of this chapter.
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, including a manufactured home, on a site, such as pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of

excavation or the placement of a manufacture 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, 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. A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground. For floodplain management purposes, "principally above ground" means other manmade facilities or infrastructure principally above ground.

Substantial damage. 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 also definition of substantial improvement.)

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for 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 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 historic structure.

Variance. A grant of relief from the requirements of this chapter.

Violation. 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 the floodplain management overlay district is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE). The height, in relation to mean sea level (existing grade in case of zone AO), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ADMINISTRATION AND ENFORCEMENT

Sec. 42.01.06. - Designation of Community Development Director.

The Community Development Director is appointed to administer and implement the provisions of this chapter.

Sec. 42.01.07. - Floodplain development application, permit and certification requirements.

Application requirements. Application for a floodplain development permit shall be made to the Community Development Director before any development activities located within special flood hazard areas. The following items must be presented to the Community Development Director to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(1) 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;

(2) The boundary of the special flood hazard area as delineated on the FIRM or a statement that the entire lot is within the special flood hazard area;
(3) Flood zone(s) designation of the proposed development area as determined on the FIRM;
(4) The boundary of the floodway(s) or non-encroachment area(s) as determined in subsection (2);
(5) The base flood elevation (BFE) where provided as set forth;
(6) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(b) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
(1) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
(2) Elevation in relation to mean sea level to which any non-residential structure in zone AE, A or AO will be flood-proofed; and
(3) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a floodproofing certificate (FEMA form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:
(1) The proposed method of elevation, if applicable (for example, fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
(2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable.

(i) 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.

Sec. 42.01.08. - Permit requirements.

At a minimum, the floodplain development permit must include:

(a) A description of the proposed development;

(b) The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 429.04(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 shall encroach into the floodway or non-encroachment area of any watercourse, as applicable;

(g) The flood openings requirements, if in zone A, AO, AE or A1-30; and

(h) Limitations of below BFE enclosure uses (if applicable), (i.e., parking, building access and limited storage only).

Sec. 42.01.09. - Certification requirements.

(a) *Elevation certificates.*

(1) An elevation certificate (FEMA form 81-31) or floodproofing certificate (FEMA form 81-65) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it is the duty of the permit holder to submit to the Community Development Director, a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification must be prepared and certified by, or under the direct supervision of, a registered land surveyor or professional engineer. Any work done within the seven-calendar-day period, and prior to submission of the certification, is at the permit holder's risk. The Community Development Director shall review the certificate data submitted. Deficiencies detected by such review must 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.

(2) A final as-built elevation certificate (FEMA form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. The permit holder has the duty to submit to the Community Development Director a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Community Development Director shall review the certificate data submitted. Deficiencies must 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.

(b) *Floodproofing certificate.* If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan, is required prior to the actual start of any new construction. The permit holder has the duty to submit to the Community Development Director a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification must be prepared and certified by, or under the direct supervision of, a professional engineer or architect. The Community Development Director shall review the certificate data, operational plan, and the inspection and maintenance plan submitted by the permit holder. Deficiencies detected by such review must 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 withhold the issuance of a certificate of compliance/occupancy.

(c) *Engineered foundation certification.* If a manufactured home is placed within zone A, AO, AE, or A1-30 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 provision of subsection 429.15(c)(2).

(d) *Watercourse alteration, relocation.* If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a 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 must all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) *Certification exemptions.* The following structures, if located within zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:

(1) Recreational vehicles meeting requirements of subsection 429.15(f)(1);

(2) Temporary structures meeting requirements of subsection 429.15(g); and

(3) Accessory structures less than 150 square feet meeting requirements of subsection 429.15(h).

Sec. 42.01.10. - Duties and responsibilities of the Community Development Director.

At a minimum, the Community Development Director is responsible for the following:

(a) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied;

(b) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received.

(c) Notify adjacent communities and the state department of crime control and 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 FEMA;

(d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(e) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 429.16 are met;

(f) Obtain actual elevation (in relation to mean sea level) of the reference level, (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with section 429.09;

(g) Obtain actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed in accordance with the provisions of section 429.09;

(h) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of section 429.09;

(i) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of section 429.09 and subsection 429.15(b);

(j) 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 has 30 days to appeal the interpretation as provided in this article;

(k) When BFE data has not been provided in accordance with subsection 429.04(b), obtain, review and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to subsection 429.16(b)(2), in order to administer the provisions of this chapter;

(l) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with subsection 429.04(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 chapter;

(m) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel or structure in a special flood hazard area is above the BFE, advise the 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;

(n) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;

(o) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Community Development Director 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 chapter and the terms of the permit. In exercising this power, the Community Development Director 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;

(p) Issue stop-work orders as required. Whenever a building or part of a building is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Community Development Director 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 stopped, and the condition(s) under which the work may be resumed. Violation of a stop -work order constitutes a misdemeanor;

(q) Revoke floodplain development permits as required. The Community Development Director 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, and 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;

(r) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Community Development Director 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;

(s) Follow through with corrective procedures of section 429.11;

(t) Review, provide input, and make recommendations for variance requests;

(u) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and/or other official flood maps/studies adopted under subsection 429.04(b), including any revisions thereto including letters of map change, issued by the state and/or FEMA. Notify the state and FEMA of mapping needs;

(v) Coordinate revisions to FIS reports and FIRM, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

Sec. 42.01.11. - Corrective procedures.

(a) *Violations to be corrected.* When the Community Development Director finds violations of applicable state and local laws, he must notify the owner or occupant of the building of the violation. The owner or occupant must each immediately remedy each of the violations of law cited in such notification.

(b) *Actions in event of failure to take corrective actions.* If the owner of a building or property fails to take prompt corrective action, the Community Development Director shall give the owner written notice, by certified or registered mail, to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Community Development Director at a designated place and time, not later than ten days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Community Development Director may issue an order to alter, vacate, or demolish the building, remove fill as applicable.

(c) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Community Development Director shall find that the building or development is in violation of the flood damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Community Development Director finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(d) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the secretary of the Board of Adjustment within 10 days following issuance of the final order. In the absence of an appeal, the order of the Community Development Director shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.

(e) *Failure to comply with orders.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken or fails to comply with an order of the Board of Adjustment following an appeal pursuant to this chapter, he or she shall be guilty of a misdemeanor and shall be punished in accordance with the law.

Sec. 42.01.12. - Variance procedures.

(a) The Board of Adjustment shall act as the appellate board and hear and decide requests for variances from the requirements of this chapter.

(b) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the court, as provided in G.S. Chapter 7A.

(c) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in section 429.05, provided provisions of subsections 429.12(i)(2), (3), and (5) 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; and

(3) Any other type of development, provided it meets the requirements of this chapter.

(d) In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in this chapter along with the following:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility of a waterfront location as defined in section 429.05 as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and

(11) 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.

(e) A written report addressing each of the above factors must be submitted with the application for a variance.

(f) Upon consideration of the factors listed above and the purposes of this chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(g) 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 will result in increased premium rates for flood insurance up to $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(h) The Community Development Director shall maintain the records of all appeal actions and report any variances to FEMA and the state upon request.

(i) Conditions for variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or chapters;

(2) Variances shall not 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;

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(4) Variances shall only be issued prior to development permit approval

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. 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 a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or chapters.

(j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following are met:

(1) The use serves a critical need in the community;

(2) No feasible location exists for the use outside the special flood hazard area;

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;

(4) The use complies with all other applicable federal, state and local laws; and

(5) The county has notified the secretary of the state department of crime control and public safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

Sec. 42.01.13. - Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be charged with a misdemeanor. Each day a violation continues shall be considered a separate and distinct offense. Nothing contained within this chapter shall prevent the county from taking other lawful action as is necessary to prevent or remedy any violation.

Sec. 42.01.14. – Flood Hazard Reduction, General standards.

In all areas of special flood hazard the following are required:

(a) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage;

(c) All new construction or substantial improvements must be constructed by methods and practices that minimize flood damages;

(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be designed and/or located so as to prevent water from entering or accumulating within the

components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches;

(e) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems;

(f) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(g) On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding;

(h) Any alteration, repair, reconstruction, or improvements to a structure which complies with the provisions of this chapter, shall meet the requirements of “new construction” as contained in this chapter;

(i) Nothing in this chapter prevents the repair, reconstruction, or replacement of a building or structure existing on September 3, 1980, the effective date of the original ordinance, and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that the repair, reconstruction, or replacement meets all of the other requirements of this chapter;

(j) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in special flood hazard areas, except by variance as specified in subsection 429.12(j). 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 section 429.09;

(k) All subdivision and other development proposals must be consistent with the need to minimize flood damage;

(l) All subdivision and other development proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(m) All subdivision and other development proposals must have adequate drainage provided to reduce exposure to flood hazards; and

(n) All subdivision proposals and other development proposals must 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.

(o) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(p) 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 base flood elevation shall apply.

Sec. 42.01.15. - Specific standards.

All special flood hazard areas where BFE data has been provided, as set forth in subsection 429.04 (b) or section 429.16, the following provisions, in addition to the provisions of section 429.14, are required.

(a) *Residential construction.* New construction and 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 section 429.05.

(b) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or nonresidential structure, must have the referenced level including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 429.05. S

Structures located in A, AO, AE and A1-30 zones 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 required 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 subsection 429.19(b). A registered professional engineer or architect must certify that the standards of this subsection are satisfied. Such certification must be provided to the official as set forth in section 429.09, along with operational and maintenance plans.

(c) *Manufactured homes.*

(1) New and replacement manufactured homes must be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in section 429.05.

(2) Manufactured homes must 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, 1995 Edition, and any revision thereto adopted by the commissioner of insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis must be supported by reinforced piers or an engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting shall be in accordance with subsection 429.15(d).

(4) 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 must be filed and approved by the Community Development Director and the local emergency management coordinator.

(d) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the regulatory protection elevation:

(1) Cannot be designed or used for human habitation, but may 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 must 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 or elevator). The interior portion of the enclosed area must not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Must be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

(3) Must include, in zones A, AO, AE, and A1-30, measures 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;

a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;

c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

d. The bottom of all required openings can be no higher than one foot above the adjacent grade;

e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, do not require flood openings. Masonry or wood underpinning, regardless of structural status, are considered to be an enclosure and requires openings as outlined above.

(e) *Additions/improvements.*

(1) 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:

a. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure, other than a standard door in the common wall, require only the addition to comply with the standards for new construction.

(3) 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:

a. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(f) *Recreational vehicles.* Recreational vehicles must either:

(1) Be on site for fewer than 180 consecutive days and 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); or

(2) Meet the requirements for new construction.

(g) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the Community Development Director a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information must be submitted in writing for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address and phone number of the individual responsible for the removal of the temporary structure;

(3) The timeframe prior to the event during which a structure will be removed (for example, a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with entity responsible for physical removal of the structure; and

(5) The designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(h) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria must be met:

(1) Accessory structures cannot be used for human habitation, (including work, sleeping, living, cooking or restroom areas);

(2) Accessory structures cannot be temperature-controlled;

(3) Accessory structures must be designed to have low flood-damage potential;

(4) Accessory structures must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
(5) Accessory structures must be firmly anchored in accordance with the provisions of subsection 429.14(a);
(6) All service facilities, such as electrical, must be installed in accordance with the provisions of subsection 429.14(d);
(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces must be provided below regulatory flood protection elevation in conformance with the provisions of subsection 429.15(d)(3); and
(8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with the provisions of section 429.09.

Sec. 42.01.16. - Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in subsection 429.04(b) where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of section 429.14, apply:

(a) No encroachments, including fill, new construction, substantial improvements, or new development, are permitted within a distance of 20 feet from each side from the top of each bank or five 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 will not result in any increase in flood levels during the occurrence of the base flood discharge.
(b) The BFE used in determining the regulatory flood protection elevation must be determined based on the following criteria:
(1) When BFE data is available from other sources, all new construction and substantial improvements within such areas must comply with all applicable provisions of this chapter and must be elevated or floodproofed in accordance with standards in sections 429.14 and 429.15.
(2) When floodway data is available from a federal, state, or other source, all new development within floodway areas shall also comply with the requirements of sections 429.15 and 429.18.
(3) All subdivision, manufactured home park and other development proposals located within special flood hazard areas must provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. The BFE data must be adopted by reference in accordance with subsection 429.04(b) and utilized in implementing this chapter.
(4) When BFE data is not available from a federal, state, or other source as outlined above, the reference level must be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation as defined in section 429.05. Requirements of section 429.15 shall also apply.

Sec. 42.01.17. - Standards for riverine floodplains with BFE 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 nor 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:

(a) Standards outlined in sections 429.14 and 429.15.
(b) 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 foot at any point within the community.

Sec. 42.01.18. - Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in subsection 429.04(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 sections 429.14, and 429.15 shall apply to all development within such areas:

(a) No encroachments, including fill, new construction, substantial improvements and other developments, are to be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Community Development Director prior to issuance of floodplain development permit, or

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(b) If subsection (a) is satisfied, all development must comply with all applicable provisions of this chapter.

(c) No manufactured homes are permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of subsection 429.15(c); and

(2) The no encroachment standards of subsection 429.16(a) are met.

Sec. 42.01.19. - Standards for areas of shallow flooding (AO zones).

Located within the special flood hazard areas established in subsection 429.04(b) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to sections 429.14 and 429.15, all new construction and substantial improvements of all structures must meet the following requirements:

(a) The reference level must be elevated at least as high as the depth number specified on the FIRM in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.

(b) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as listed above so that the structure, together with attendant utility and sanitary facilities, below that level must 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 as in accordance with section 429.09 and subsection 429.15(b).

(c) Adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Sec. 42.02 - Watershed Protection (WP-O)

Purpose:

(a) *Surface waters of the state and county are a precious but delicate natural resource. They are life sustaining for humans, animals, and vegetation both directly and as a source of recharge for the underground aquifers. They provide an essential link in almost all natural processes, provide opportunities for recreation and refreshment, supply industrial needs for process and cooling water, generate power, and contribute immeasurably to scenic beauty.*

(b) *The intent of the watershed protection district (WP-O) is to provide regulations which will limit the exposure of drinking water watersheds in Rockingham County, to pollution and safeguard the use waters for recreational opportunities. The sources of such pollution include, but are not limited to leachate from septic tank nitrification fields; stormwater runoff; accidental spillage from residential, commercial and industrial operations.*

Sec. 42.02.01 Authority and Enactment.

The Legislature of the State of North Carolina has, in G.S. Chapter 160D-103 Unified Development Ordinance and 160D-926, Water Supply Watershed Management 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 Rockingham County Board of Commissioners does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Rockingham County.

Sec. 42.02.02 Definitions.

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

Balance of Watershed (BW). The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

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.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious (does not allow water to infiltrate from surface to subsurface) 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.)

Cluster Development. Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed-use development are considered as cluster development.

Common Plan of Development **–** site where multiple separate and distinct development activities may be taking place at different times or different schedules but governed by a single development plan regardless of ownership of parcels.

Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located

directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one or more persons.

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 (160D-102), or
(3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 160D-102).

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.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

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.

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

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance. A variance that is not a Minor Variance as defined in this ordinance .

Minor Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high-density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low-density option. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach with the vegetated setback divided by the total area of vegetated setback within the project.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective

date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.
Non-residential Development. All development other than residential development, agriculture and silviculture.
Plat. A map or plan of a parcel of land which is to be, or has been subdivided.
Protected Area. The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.
Qualified Individual. A person certified to perform stream determinations by completing and passing he Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.
Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.
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.
Single Family Residential. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.
Stormwater Control Measure (SCM). means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater or a combination thereof.
Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.
Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.
Subdivider. Any person, firm corporation, or official who subdivides or develops any land deemed to be a subdivision as herein defined.
Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
(3) The public acquisition by purchase of strips of land for the widening or opening of streets;
(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;
(5) The division of a tract into plots or lots used as a cemetery.
(6) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Surface Waters: All waters of the State as defined in NCGS 143-212 except underground waters.
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 spring or other adverse health effects.
Variance. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.
Vested Right – The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the North Carolina General Statutes Section 160D- 108 for more information.
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.) or alternatively, the geographic region within which water drains to a particular river, stream or body of water.
Watershed Administrator. An official or designated person of [county][town] responsible for administration and enforcement of this ordinance.
Word Interpretation.

For the purpose of this ordinance, certain words shall be interpreted as follows:
Words in the present tense include the future tense.
Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
The word "structure" shall include the word "building."
The word "lot" shall include the words, "plot," "parcel," or "tract."
The word "shall" is always mandatory and not merely directory.
The word "will" is always mandatory and not merely directory.

Sec. 42.02.03 Jurisdiction.
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 Rockingham 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 kept on file in the office of the Community Development Director. These articles are not more restrictive than the minimum state requirements set forth by the rules in 15A NCAC 02B .0624 Water Supply Watershed Protection Program
Section 42.02.03 Exceptions to Applicability.
(a) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation 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 [county][town]; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the [county][town] 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.
(a) (B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(b) (C) 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.

(c) (D) If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from 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 of any other type of subdivision that is exempt from a local 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.[3]

Section 42.02.05 Repeal of Existing Watershed Ordinance. (Optional)

This ordinance carries forward by re-enactment, some of the Watershed Protection Ordinance of Rockingham County, North Carolina (11/1/1993, effective 11/1/1994; as amended 10/09/2012). It is not the intention to repeal but rather to 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 Watershed 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 ordinance provisions heretofore in effect, which are now pending in any court 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 Watershed Protection 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.

Section 42.02.06 Criminal Penalties.

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 that the violation continues shall constitute a separate offense.

Section 42.02.07 Remedies.

(a) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Rockingham County Board of Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalties, action or proceedings 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. 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.

(b) If the Watershed 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; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action

(c) authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a

ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

Section 42.02.08 Severability.

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

Sec. 42.02.09 Regulations applicable to multiple watershed areas.

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 Article III Division 4 (Subdivision Procedures) of this ordinance. All subdivision applications for properties located within a Public Water Supply Watershed or the Jordan Lake Watershed shall be reviewed by the Watershed Administrator or their appointed representative. In addition to the density and built upon limits allowed for each of the individual water areas, new development and expansions to existing development may be increased on a case-by-case basis through the provisions outlined in Sec. 42.02.104.

(a) Agricultural Activities.

Water Supply Watershed protection rules pertaining to agriculture are required in all WS-I watersheds and in the critical areas of WS-II, WS-III and WS-IV watersheds. [See (1) Allowed Uses (a) in each of these watersheds.] The Soil and Water Conservation Commission is the designated management agency responsible for implementing the provisions of the watershed rules pertaining to agricultural activities.

(1) Agricultural activities conducted after January 1, 1993 shall maintain a minimum 10-foot vegetated buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) scale topographic maps or as determined by local government studies; and
(2) Animal operations permitted under 15A NCAC 2H.0217 and deemed permitted are allowed in all classified water supply watersheds.

(b) Section 3. Cluster Development.

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

(1) Minimum lot 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 2. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
(2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
(3) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.
(4) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowner's association for management; 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.

(c) Section 4. Buffer Areas Required.

(1) As provided in Chapter 8 of this Unified Development Ordinance, a permanently protected "riparian buffer" shall be required for development within the Jordan Reservoir Watershed. See **Sec. 42.03** for these regulations.
(2) A minimum sixty-foot (60) vegetative buffer is required along all perennial and intermittent 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 (with the exception of the Jordan Lake protected overlay). Desirable artificial streambank or shoreline stabilization is permitted.

(3) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

(d) Section 5. 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:

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

(2) 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.

(3) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

(4) 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.

(5) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.

(e) Section 6. Application of Regulations.

(1) 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.

(2) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(3) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(f) Section 7. 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.

(g) Uses of land. 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:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(h) Reconstruction of Buildings or Built-upon Areas. 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:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) 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.

(g) Section 8. Zoning Permit
   (1) Except where a single-family residence is constructed on a lot deeded prior to January 1, 1994, no building or built-upon area shall be erected, moved, enlarged or structurally altered, not shall any building permit be issued nor shall any change in the use of any building or land be made until a Zoning Permit has been issued. No Zoning Permit shall be issued except in conformance with the provisions of the watershed regulations in this chapter.
   (2) Zoning Permits shall be issued in accordance with Chapter II, Article XV of this Unified Development Ordinance.
   (3) Prior to the issuance of a Zoning Permit, the Planning Department may consult with qualified personnel for assistance to determine if the application meets the watershed requirements of this ordinance.
   (4) A Zoning Permit shall expire if a Building Permit for such use is not obtained by the applicant with twelve (12) months from the date of issuance.

(h) Section 9. Building Permit Required.
   No permit required under the North Carolina State Building Code shall be issued for any activity until a Zoning Permit has been issued.

(i) Section 10. Occupancy Permits
   The Inspections Department shall issue a Certificate of Occupancy certifying that all requirements of the ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

Sec. 42.02.10. Establishment of Watershed Areas.

The purpose of this Article is to list and describe the watershed areas herein adopted. For purposes of this ordinance the county is hereby divided into the following areas, as appropriate:

Country Line Creek	WS-II-BW (Balance of Watershed)
Troublesome Creek	WS-III-CA (Critical Area)
Troublesome Creek	WS-III-BW (Balance of Watershed)
Dan River (Eden)	WS-IV-PA (Protected Area)
Dan River (Madison)	WS-IV-PA (Protected Area)
Haw River	WS-IV-PA (Protected Area)
Mayo River	WS-IV-PA (Protected Area)
Smith River	WS-IV-PA (Protected Area)

Sec. 42.02.11. Watershed Areas Described.

A. WS-I Watershed Areas.

There are no WS-I Watershed areas in Rockingham County.

B. WS-II Watershed Areas-Critical Area (WS-II-CA)

There are no WS-II Critical Watershed areas in Rockingham County.

WS-II Watershed Areas - Balance of Watershed (WS-II-BW).

1. Allowed Uses:
    (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
    (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.0101-.0209).
    (c) Residential development.
    (d) Non-residential development except those listed in (C)(3). (Non-discharging landfills and residuals application sites are allowed.)
2. Density and Built-upon Limits:
    (a) Single Family Residential--development shall not exceed one dwelling unit per 43,560 square feet on a project by project basis. No residential lot shall be less than one acre (excluding roadway right-of-way), except within an approved cluster development.
    (b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
3. Prohibited uses:
    (a) Discharging landfills
    (b) The storage of toxic and hazardous materials unless a spill containment plan is implemented

WS-III Watershed Areas - Critical Area (WS-III-CA).

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. [See Article II, Section 2(H)]
    (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.0101-.0209).
    (c) Residential.
    (d) Non-residential development, except those listed in (D)(3).
2. Density and Built-upon Limits:
    (a) Single Family Residential--development shall not exceed one dwelling unit per 80,000 square feet on a project by project basis. No residential lot shall be less than 80,000 square feet (excluding roadway right-of-way), except within an approved cluster development.
    (b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.
    (c) New or existing development shall be served by an approved water and sewer system.
3. Prohibited Uses
    (a) New sludge (residual) application sites.
    (b) New landfills.
    (c) Airports.
    (d) Commercial feeder operations.
    (e) Commercial uses which sell, store, or distribute motor fuel or other hazardous materials.
    (f) Industrial uses.
    (g) Incinerators.
    (h) The manufacture, use, or storage of any hazardous material or toxic substances as defined in Chapter 1 of this UDO or determined by the Rockingham County Board of Commissioners.
    (i) Metal salvage facilities including junkyards.
    (j) Underground fuel or chemical storage tanks.

WS-III Watershed Areas - Balance of Watershed (WS-III-BW).

1. Allowed Uses:
    (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
    (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.0101-.0209).
    (c) Residential development.
    (d) Non-residential development except those listed in (E)(3).
2. Density and Built-upon Limits:
    (a) Single Family Residential--development shall not exceed one (1) dwelling unit per 40,000 square feet on a project by project basis. No residential lot shall be less 40,000 square feet (excluding roadway right-of-way), 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 built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
3. Prohibited Uses:
    (a) Discharging landfills.
    (b) Underground fuel or chemical storage tanks
    (c) The manufacture, storage or use of toxic and hazardous materials unless a spill containment plan is implemented.

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 government program are required to meet the provisions of this watershed ordinance when located in a WS-IV watershed.

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. [See Article II, Section 2(H)]
    (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.0101-.0209).
    (c) Residential.
    (d) Non-residential development, except those listed in (F)(3).
2. Density and Built-upon Limits:
    (a) Single Family Residential--development shall not exceed one dwelling unit per 30,000 square feet with well and individual subsurface septic system; 25,000 square feet with public water or sewer; 21,780 square feet with public water and sewer on a project by project basis. No residential lot shall be less than one-half (1/2) acre or 21,780 square feet (excluding roadway right-of-way), 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.
    (c) New or existing development shall be served by an approved water and sewer system.
3. Prohibited Uses:
    (a) landfills.
    (b) sites for land application of residuals or petroleum contaminated soils.
    (c) the storage of toxic and hazardous materials unless a spill containment plan is implemented.

WS-IV Watershed Areas - Protected Area (WS-IV-PA).

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 watershed ordinance when located in a WS-IV watershed.

1. Uses Allowed:
    (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
    (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.0101-.0209).
    (c) Residential development.
    (d) Non-residential development.
2. Density and Built-upon Limits:
    (a) Single Family Residential--development shall not exceed one (1) dwelling unit per 30,000 square feet with a well and individual subsurface septic system; 25,000 square feet with public water or sewer; and, 21,780 square feet with public water and sewer, on a project by project basis. No residential lot shall be less than one-half (1/2) acre (or 21,780 square feet excluding roadway right-of-way), 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 projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a 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.
    (c) The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.
    (d) In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. 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.

Sec. 42.02.12. Watershed Administrator and Duties thereof

The Rockingham County Community Development Director shall act as Watershed Administrator. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(a) The Watershed Administrator shall keep a record of all permits on file and shall make the records available for public inspection during regular office hours of the Administrator.
(b) The Watershed 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 Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the non-critical area of WS-II and WS-III watersheds and, ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).

(d) The Watershed 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 Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

(e) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management 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.

Sec. 42.02.13. Appeal from the Watershed Administrator.

Appeals from the decision Watershed Administrator shall be submitted to the Board of Adjustment and handled the same as an appeal from the decisions of the Zoning Administrator as specified in Chapter 2, Article XIV.

Sec. 42.02.13. Changes and Amendments to the Watershed Protection Ordinance.

Under no circumstances shall Rockingham County adopt 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 N.C. Division of Environmental Health and the N.C. Division of Community Assistance.

Sec. 42.02.14. Provisions for increased density or built upon area limitations.

The watershed administrator shall have the power to authorize, in specific cases, increases to the density and/or built upon area limitations of this Ordinance through 10/70 provisions or watershed density averaging requests for all areas of the watershed outside the Watershed Critical Areas.

Section 42.02.15. Density Averaging

(A) An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

(1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.

(2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.

(3) Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.

(4) 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.

(5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.

(6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

(7) Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

(8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered

together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

Sec. 42.02.15. Watershed Variances.

The Board of Adjustment ("Board") shall have the power to authorize, in specific cases, variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the County shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the major variance is being considered.

(a) Applications for a variance shall include the following information:
   (1) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
   (2) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board in considering the application.
   (3) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Board. Such comments shall become a part of the record of proceedings of the Board.

(b) Before the Board of Adjustment may grant a watershed variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
   (1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
      1. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting an variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
      2. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
      3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
      4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
      5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
   (2) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(3) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(c) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(d) The Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(e) A variance issued in accordance with this Section shall expire if a Zoning and/or Building Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(f) If the application calls for the granting of a variance, and if the Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
   (1) The variance application;
   (2) The hearing notices;
   (3) The evidence presented;
   (4) Motions, offers of proof, objections to evidence, and rulings on them;
   (5) Proposed findings and exceptions;
   (6) The proposed decision, including all conditions proposed to be added to the permit.

(g) The preliminary record shall be sent to the North Carolina Environmental Management Commission for its review as follows:
   (1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that
      a. the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and
      b. the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
   (2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that
      a. the property owner can secure a reasonable return from or make a practical use of the property without the variance or
      b. the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board. The Board shall prepare a final decision denying the variance as proposed.

Sec. 42.02.16. Appeals from Variances.

Appeals from variances must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

Sec 42.02.17- APPENDIX A NONPOINT WATERSHED MANAGEMENT PLAN

A comprehensive management plan is needed to protect one of Rockingham County's most vital resources - a clean, plentiful water supply. To be effective it must address both point and nonpoint sources of pollution. Point sources (companies or municipalities that discharge directly into a stream) are regulated through the discharge permits issued by the NC Department of Environment, Health, and Natural Resources. Equally as important are the programs addressing nonpoint source pollution. Within Rockingham County are a variety of federal/state/county and municipal programs developed to address this issue.

NEGATIVE IMPACTS ON WATER QUALITY	PROGRAMS ADDRESSING THESE IMPACTS
DEVELOPMENT	**DEVELOPMENT**
Incompatible land uses (such as quarries, junk yards) can pollute a drinking supply watershed.	Rockingham County Zoning Ordinance limits incompatible uses to specific zoning districts and requires them to obtain a special use permit.
High intensity development undermines natural filtering systems.	The County Zoning Ordinance also: (1) Limits residential density and non-residential built-upon area in designated watersheds; (2) Allows clustering of development in order to create more open space and encourages development away from streams and lakes; (3) Requires 50 ft. buffers along all perennial streams and 100 ft. setback from high water mark around water supply reservoirs.
Land disturbing activities cause sediment to enter streams and lakes.	NC Sedimentation Control Act of 1974 requires all developers who are disturbing more than one acre to prepare and implement a sedimentation plan to minimize erosion of soil from the site. The program is administered by the NC Department of Environment, Health, and Natural Resources, Division of Land Quality. The County supports this program by notifying the state of any project not in compliance.
ON-SITE WASTEWATER DISPOSAL	**ON-SITE WASTEWATER DISPOSAL**
Poorly designed, installed, and maintained septic systems will allow high bacterial and nutrient concentrations to enter ground and surface waters.	N.C. General Statute 130A, Article 11 gives the state primary authority to enforce the Sanitary Sewage Systems Program. Within the NC Department of Environment, Health, and Natural Resources, the Division of Environmental Management or Environmental Health (through the local county sanitarian) enforce this program.

NEGATIVE IMPACTS ON WATER QUALITY	PROGRAMS ADDRESSING THESE IMPACTS
SOLID AND HAZARDOUS WASTE	**SOLID AND HAZARDOUS WASTE**
Migration of leachate from landfills and hazardous waste spills will contaminate streams and lakes.	The county zoning ordinance limits landfills and hazardous materials operations to specific districts and requires a special use permit to minimize any negative impacts. NC General Statute 130A gives the NC Department of Environment, Health, and Natural Resources, Division of Solid Waste Management primary regulatory responsibility for solid and hazardous waste. However, the NC Department of Labor, Agriculture, Commerce, Crime Control and Public Safety as well as the Division of Environmental Management and Pollution Prevention Pays Program within the NC Department of Environment, Health, and Natural Resources have some specific duties in regard to regulating hazardous wastes; the Rockingham County Fire Marshall as part of the County Emergency Response Plan has a role in hazardous waste management, especially with emergency responses to spills.
FORESTRY	**FORESTRY**
Sediment, organic debris, thermal effects due to decreased shade cover, and forest chemicals such as herbicides and fertilizers.	All forestry activities in a watershed must implement best management practices that meet the performance standards in Forest Practices Guidelines relating to Water Quality (15A NCAC 11.0101-.0209) NC Department of Environment, Health, and Natural Resources, Division of Forest Resources provides technical assistance with these standards to any logging operator. If these guidelines are not met, the NC Department of Environment, Health, and Natural Resources, Division of Land Quality requires these operations to continue only with an approved sedimentation plan as required under the NC Sedimentation Control Act.
MINING	**MINING**
Sediment in water supply.	The County zoning ordinance regulates the location of mining operations and requires a special use permit. NC Mining Act of 1971, enforced by NC Department of Environment, Health, and Natural Resources, Division of Land Quality, requires mining and reclamation plans approved prior to excavation. If not in compliance after inspections, enforcement through civil penalties, injunction relief, and/or bond forfeiture.

NEGATIVE IMPACTS ON WATER QUALITY	PROGRAMS ADDRESSING THESE IMPACTS
AGRICULTURE	
Sediment, nutrients, herbicides, and pesticides in water supply.	NC Pesticide Law of 1971 (NCGS 143-434-470) is enforced by the NC Department of Agriculture. Their specific duties include: regulating the licensing of operators and the storage, transportation, handling, use and disposal of various pesticides. Agriculture Cost Sharing Program administered by the Rockingham County Soil and Water Conservation District Board. Duties include: identifying treatment areas; allocating resources, signing agreements with landowners, providing technical assistance on planning and best management practices, and encouraging the use of appropriate best management practices to protect water quality.
TRANSPORTATION	**TRANSPORTATION**
Highways through watersheds increase risk of pollutants such as sediment, heavy metals, gas and oil as well as hazardous materials from spills entering water supply.	NC Department of Transportation applies best management practices for all new construction. Annual audit by NC Department of Environment, Health, and Natural Resources, Division of Land Quality insures NC Department of Transportation's program is adequate. Drinking supply watersheds are a consideration in all thoroughfare plans for the county.
WATER BASED RECREATION	**WATER BASED RECREATION**
Intense human activity increases risk of contamination.	City of Reidsville - owner of Lake Reidsville - restricts recreational activities such as swimming in the lake. In addition, the county will implement best management practices as recommended by the Recreation Resources Service of North Carolina State University on other water based recreation.

Sec. 42.03. - Jordan Lake Riparian Overlay District (JP-O)

Sec 42.03.01. Authority

This Ordinance is adopted pursuant to the authority vested in Rockingham County by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), N.C Gen. Stat §153A-121, 153A-140, , and any special legislation enacted by the General Assembly for Rockingham County.

Sec 42.03.02. Purpose and Intent

The purpose of adopting the following Ordinance is to protect and preserve existing riparian buffers throughout the Jordan Watershed to maintain their nutrient removal and stream protection functions and to protect the water supply uses throughout the Jordan watershed.

Sec. 42.03.03. Title

This Ordinance shall be known as the *Rockingham County Riparian Buffer Protection Ordinance for Lands within the Jordan Watershed*.

Sec. 42.03.04. Jurisdiction

This Ordinance shall be applied to all land in the planning jurisdiction of Rockingham County that is located within the Jordan Reservoir Watershed.

Sec. 42.03.05. Applicability

This Ordinance applies to all landowners and other persons conducting activities in the area described in Section 4, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.

Sec 42.03.06. Relation to Other Ordinances

If the provisions of this ordinance otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.

Sec. 42.03.07. Riparian Area Protection within the Jordan Reservoir Watershed:

Sec. 42.03.071 Buffers Protected

The following minimum criteria shall be used for identifying regulated buffers:

(a) This Ordinance shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in Section 7.(E) upon, 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.

(b) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

(c) For the purpose of this Ordinance, only one of the following types of maps shall be used for purposes of identifying a water body subject to the requirements of this ordinance:
   (1) The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
   (2) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
   (3) A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of Section 7.(C) of this Ordinance.

(d) Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Quality or another party, a Rockingham County representative, who has successfully completed the Division's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The representative, shall establish the origin point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams,* or its successor, as available from the NC Division of Water Quality. The County may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.
(e) Riparian buffers protected by this Ordinance shall be measured pursuant to Section 7.(D) of this Ordinance.
(f) Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
(g) No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this Ordinance.

Sec. 42.03.072 Exemption Based on on–site Determination

When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the County. Upon request, a Rockingham County representative who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an onsite determination. The County may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

(a) Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)
(b) Ephemeral streams.
(c) The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.
(d) Ditches or other man-made water conveyances, other than modified natural streams.

Sec. 42.03.073 Exemption when Existing Uses are Present and Ongoing

This Ordinance shall not apply to uses that are existing and ongoing; however, this Ordinance shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

(a) It was present within the riparian buffer as of the effective date of this Ordinance and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and onsite sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is

not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this Ordinance, and existing diffuse flow is maintained.

(b) Projects or proposed development that are determined by the County to meet at least one of the following criteria:
   (1) Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this Ordinance, and prior to the effective date of this Ordinance;
   (2) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this Ordinance;
   (3) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this Ordinance; or
   (4) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the County prior to the effective date of this Ordinance.

Sec. 42.03.074 Riparian Buffer *Zone*

The protected riparian buffer zone shall consist of a vegetated area that is undisturbed except for uses provided for in the *Table of Exempt Uses,* Appendix A of this Ordinance. For intermittent and perennial streams, the buffer shall begin at the top of the bank and extend landward a distance of 50 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank. For ponds, lakes and reservoirs located within a natural drainage way, the buffer shall begin at the normal water level and extend landward a distance of 50 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

Sec. 42.03.075 Diffuse Flow Requirements

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

(a) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters the riparian buffer;
(b) Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
(c) No new stormwater conveyances are allowed through the riparian buffer except for those specified in the Table of Exempt Uses (See Section 8.(B) and Appendix A of this Ordinance).

Sec. 42.03.08. Potential Uses and Associated Requirements:

Sec. 42.03.081 Approval for New Development

All subdivision applications for properties located within a Public Water Supply Watershed or the Jordan Lake Watershed shall be reviewed by the Watershed Administrator or their appointed representative. Rockingham County shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 7.(A) of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following as applicable:

(a) Determined the activity is exempt from the requirements of this Ordinance as listed in the Table of Exempt Uses in Appendix A; or
(b) Receives a variance pursuant to Section 9.(B).

Sec. 42.03.082 Table Exempt of Uses

The *Table of Exempt Uses,* found in Appendix A to this chapter, sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, that are categorized as exempt. All uses not categorized as exempt are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer unless a variance is granted pursuant to Section 9 of this Ordinance.

Sec. 42.03.083 Requirements for Exempt Uses

Uses designated in the *Table of Exempt Uses* are permissible without authorization by the County provided that they adhere to the limitations of the activity as defined in the *Table of Exempt Uses*. Additionally, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

Sec. 42.03.09. Variances:

Sec. 42.03.091 Riparian Buffer Zones

The riparian buffer shall consist of a vegetative area that is undisturbed except for uses provided for in the Table of Exempt Uses in Appendix A. For purposes of variances, the protected riparian buffer shall have two zones as follows:

(a) The location of Zone One shall be as follows:
    (1) For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.
    (2) For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

(b) Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

Sec. 42.03.092 Variances

(a) Requirements for Variances - Persons who wish to undertake prohibited uses that will impact any portion of the riparian buffer may pursue a variance. The County shall prepare preliminary findings and submit them to the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:
    (1) For any variance request, the County shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:
    (2) If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the County shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;
    (3) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
    (4) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;
    (5) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;

a. The hardship is rare or unique to the applicant's property.
b. The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and
c. In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(b) Minor Variances

A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 9 (B)(1) by the Rockingham County Board of Adjustment pursuant to G.S. 160D – 302 and 160D-705. The Board may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the Board shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

(c) Major Variances

A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If Rockingham County has determined that a major variance request meets the requirements in Section 9.(B)(3), then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by Rockingham County, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

(d) Variance Application

The applicant shall submit the following information in support of their variance request.

(1) The name, address and phone number of the applicant;
(2) The nature of the activity to be conducted by the applicant;
(3) The location of the activity, including the jurisdiction;
(4) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
(5) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
(6) Plans for any best management practices proposed to be used to control the impacts associated with the activity.
(7) Other information (i.e. information requested by Staff, unique physical nature of applicant's property, deed restrictions, etc.)

Sec. 42.03.093 Mitigation

(a) This item shall apply to persons who wish to impact a riparian buffer in the Jordan watershed when a person has received a variance pursuant to Section 9.(B) of this Ordinance and is required to perform mitigation as a condition of a variance approval.

(b) Issuance of the Mitigation Approval

(1) The County shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

(c) Options for Meeting the Mitigation Requirement

(1) The mitigation requirement may be met through one of the following options:
(2) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;
(3) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 9.(C)(6) of this Ordinance.

(d) The Area of Mitigation
(1) The County shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 9.(C)(3) of this Ordinance and as further specified in the requirements for each option set out in this Section, according to the following:
a. The impacts in square feet to each zone of the riparian buffer shall be determined by the County by adding the following:
b. The area of the footprint of the use causing the impact to the riparian buffer;
c. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
d. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
(2) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 9(4)(a) of this Ordinance to each zone of the riparian buffer:
a. Impacts to Zone One of the riparian buffer shall be multiplied by three;
b. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and
c. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

(e) The Location of Mitigation
(1) For any option chosen, the mitigation effort shall be located within the same sub watershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same sub watershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation

(f) Riparian Buffer Restoration or Enhancement
Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:
(1) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
a. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 9.(C)(4) of this Ordinance; or
b. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 9.(C)(4) of this Ordinance;
(2) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 9.(C)(5) of this Ordinance;
(3) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

(4) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

(5) If the applicant is required to perform mitigation as a condition of a variance approval, the applicant shall submit a restoration or enhancement plan for approval by the County. The restoration or enhancement plan shall contain the following:
   a. A map of the proposed restoration or enhancement site;
   b. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
   c. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
   d. A fertilization plan; and
   e. A schedule for implementation;

(6) Within one year after the restoration or enhancement plan has been approved, the applicant shall present proof to Rockingham County that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the Rockingham County riparian buffer protection program;

(7) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

(8) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

Sec. 42.03.10. Compliance and Enforcement:

Sec. 42.03.101 Site Inspections

(a) Agents, officials, or other qualified persons authorized by Rockingham County may periodically inspect riparian buffers to ensure compliance with this ordinance.

(b) Notice of the right to inspect shall be included in the letter of approval of each variance.

(c) Authority to Enter Property and Conduct Investigations and Inspections
   (1) Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Rockingham County, while that person inspects or attempts to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. Rockingham County shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

(d) Power to Require Statements
   (1) Rockingham County shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

Sec. 42.03.102 Compliance with Requirements

Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

Sec. 42.03.103 Appeals, Judicial Review, Notice of Violation, Penalties, and Remedies

Appeals, judicial review, penalties, and remedies for the Riparian Buffer Protection Ordinance will be handled in accordance with Chapter 2, Articles XIV, XV, and XVI of the Zoning Ordinance.

Sec. 42.03.11. Severability

If any one or more sections or portions thereof of this Ordinance are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.

Sec. 42.03.12. Effective Date

This Ordinance will become effective upon approval by the NC Environmental Management Commission and adoption by the Rockingham County Board of Commissioners.

Sec. 42.03.13. Revisions to this Ordinance

Rockingham County shall review any revisions to the Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commissions' comments, Rockingham County will incorporate amendments into this ordinance.

Sec. 42.03.14. Definitions

For the purpose of this Ordinance, these terms shall be defined as follows:

Access Trails means pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

Channel means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

County means Rockingham County, North Carolina. Where this ordinance refers to any territory, land area or property within the "county", the term "county" shall include unincorporated areas within the jurisdiction of Rockingham County, North Carolina. Where appropriate, the term shall also include any personnel or agent of Rockingham County.

DBH means diameter at breast height of a tree measured at 4.5 feet above ground surface level.

Development means the same as defined in Rule 15A NCAC 2B .0202(23).

Ditch or canal means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through interstream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

Ephemeral stream means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

Existing development means development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:

1. It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or
2. It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.

Intermittent stream means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
Jordan nutrient strategy or Jordan water supply nutrient strategy means the set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).
Jordan Reservoir means the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).
Jordan watershed means all lands and waters draining to B. Everett Jordan Reservoir.
New Development means any development project that does not meet the definition of existing development set out in this Ordinance.
Perennial stream means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
Perennial waterbody means a natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).
Perpendicular crossing means any crossing that intersects the surface water at an angle between 75 degrees and 105 degrees.
Stream means a body of concentrated flowing water in a natural low area or natural channel on the land surface.
Surface waters means all waters of the state as defined in G.S. 143-212 except underground waters
Tree means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
Temporary road means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

Sec. 42.03.15 APPENDIX A Table of Exempt Uses

Use
Access trails: Pedestrian access trails, leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities, are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer
Archaeological activities
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.
Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3

Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers: New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are manage to minimize the sediment, nutrients and other pollution that convey to waterbodies.
Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items (7) and (8) of this Rule is established adjacent to the new channel
Driveway crossings of streams and other surface waters on single family residential lots subject to this Ordinance that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer
Fertilizer application: one-time application to establish vegetation
Historic preservation
Mining activities: Wastewater or mining dewatering wells with approved NPDES permit
Railroad crossings of streams and other surface waters subject to this Ordinance where impact is equal to or less than 40 linear feet of riparian buffer
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored
Road crossings of streams and other surface waters subject to this Ordinance where impact is equal to or less than 40 linear feet of riparian buffer
Scientific studies and stream gauging
Temporary roads with less than or equal to 2,500 square feet of buffer disturbance, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediate after construction is complete and replanted immediately with comparable vegetation except that tree planting may occur during the dormant season. A one time application of fertilizer may be used to establish vegetation. The applicant shall submit annual reports for a period of five years after the restoration showing that the trees planted have survived and that the diffused flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during the five-year period.

Use
Temporary in-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act**,** provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation.

Utility, electric, aerial, perpendicular crossing of streams and other surface waters subject to this ordinance that disturb equal to or less than 150 feet of linear feet of riparian buffer
Provided that all of the following BMPs for overhead utility lines are used. A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.
- Poles or aerial infrastructure shall not be installed within 10 feet of a water body.

Utility, electric, underground, perpendicular crossings that disturb less than or equal to 40 linear feet of riparian buffer:
Provided that all of the following BMPs for underground utility lines are used. Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.

- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.
- Poles or aerial infrastructure shall not be installed within 10 feet of a water body**.**

Use
Utility, electric, underground, other than perpendicular crossings: Provided that: • No heavy equipment is used. • Vegetation in undisturbed portions of the buffer is not compromised. • Felled trees are removed by chain. • No permanent felling of trees occurs in protected buffers or streams. • Stumps are removed only by grinding. • At the completion of the project the disturbed area is stabilized with native vegetation. • The requirements of Sections 7.(D) and 7.(E) can be met. And provided that all of the following BMPs for underground utility lines are used. Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed. • Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut. • Underground cables shall be installed by vibratory plow or trenching. • The trench shall be backfilled with the excavated soil material immediately following cable installation. • No fertilizer shall be used other than a one-time application to re-establish vegetation. • Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state. • Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer. • In wetlands, mats shall be utilized to minimize soil disturbance.
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance that disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width: Provided that, all of the following BMPs for underground utility lines are used. Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed. • Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut. • Underground cables shall be installed by vibratory plow or trenching. • The trench shall be backfilled with the excavated soil material immediately following cable installation. • No fertilizer shall be used other than a one-time application to re-establish vegetation. • Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state. • Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer. • In wetlands, mats shall be utilized to minimize soil disturbance. • Poles or aerial infrastructure shall not be installed within 10 feet of a water body.

Use
Vegetation management: • Emergency fire control measures provided that topography is restored • Planting vegetation to enhance the riparian buffer • Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised • Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank. • Removal of individual trees which are dead, diseased or damaged. • Removal of poison ivy • Removal of invasive exotic vegetation as defined in: *Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30*
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: □ Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification

Sec. 42.04. - Airport Hazard (AH-O)

Sec. 42.04.01. ENACTMENT LANGUAGE

An ordinance regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Rockingham County Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zoned; defining certain terms used herein; referring to the Rockingham County Airport Zoning Map, which is incorporated and made part of this ordinance; providing for enforcement; establishing a board of appeals; and imposing penalties.

Whereas, it is hereby found that an airport hazard endangers the lives and property of users of the Rockingham County Airport and property or occupants of land in its vicinity, and also if the obstruction type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Rockingham County Airport and the public investment herein. Accordingly, it is declared:

1. that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Rockingham Airport;
2. that it is necessary in the interest of the public health, public safety, and general welfare convenience that the creation or establishment of airport hazards be prevented; and
3. that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which Rockingham County may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE ROCKINGHAM COUNTY BOARD OF COMMISSIONERS OF ROCKINGHAM COUNTY AS FOLLOWS:

Sec. 42.04.02. SHORT TITLE

This Ordinance shall be known and may be cited as the **"Rockingham County Airport Hazard Zoning Ordinance"**.

Sec. 42.04.03. DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

AIRPORT - Rockingham County Airport;

AIRPORT ELEVATION - 694 feet above mean sea level;

AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft;

STRUCTURE - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines;

TREE - Any object of natural growth;

NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto;

HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified;

PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them;

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length;

VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on

a FAA airport layout plan that has been approved, a military service's approved military airport layout plan, or by any planning document submitted to the FAA by competent authority;

UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less;

NON-PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on a FAA planning document or military service's military airport planning document;

PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; and

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in FAR Part 77.

Sec. 42.04.04. AIRPORT ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the Rockingham County Airport Hazard Zoning Map consisting of one sheet, prepared by Lott Parrish and Associates and dated October 4, 1983. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Runway Larger Than Utility Visual Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.
2. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runaway.
3. **Transitional Zones** - These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90 degree angles to the extended runway centerline.
4. **Horizontal Zone** - The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
5. **Conical Zones** - The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of

4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

Sec. 42.04.05 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Runway Larger Than Utility Visual Approach Zone** - Slopes upward twenty (20) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Zone** - Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
3. **Transitional Zones** - Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is 694 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline. (Amended 11/5/1990)
4. **Horizontal Zone** - One hundred and fifty (150) feet above the airport elevation or a height of 844 feet above mean sea level. (Amended 11/5/1990)
5. **Conical Zone** - Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
6. **Excepted Height Limitations** - Nothing in this Ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to twenty (20) feet above the surface of the land. Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

Sec. 42.04.06. USE RESTRICTIONS

Notwithstanding any other provision of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Sec. 42.04.07. NONCONFORMING USES

1. **Regulations not Retroactive** - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall

require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

2. **Marking and Lighting** - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the appropriate officials to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of Rockingham County Airport Authority.

Sec. 42.04.08. PERMITS

1. **Future Uses** - No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted.
    a. However, a permit for a tree or structure of less than 75 feet of vertical height above ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.
    b. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
2. **Existing Uses** - No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. **Nonconforming Uses Abandoned or Destroyed** - Whenever the appropriate official determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. **Variances** - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations in accordance with Article XIV of the Zoning Ordinance. All applications for variances will be subjected to an airspace analysis by the Federal Aviation Administration.
5. **Hazard Marking and Lighting** - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Rockingham Airport Authority at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

Sec. 42.04.09. ENFORCEMENT

It shall be the duty of the Community Development Director (herein referred to as "administrative agency") to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the administrative agency upon a form furnished by the said agency. The administrative agency shall hear and decide all permits under G. S. 63-32 (a). Applications required by this Ordinance to be submitted to the administrative agency shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the administrative agency.

Sec. 42.04.10. APPEALS, JUDICIAL REVIEW, PENALTIES, AND REMEDIES

Appeals, judicial review, penalties, and remedies for the Airport Hazard Ordinance will be handled in accordance with Articles XIV, XV and XVI of the Zoning Ordinance.

Sec. 42.04.11. CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Sec. 42.04.12. SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Sec. 42.04.13. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage. Adopted and passed by the Rockingham County Board of Commissioners 11/26/1984.

Sec. 42.05. - Voluntary Farmland Preservation Ordinance
(Original Adoption 6/07/2004)

Sec. 42.05.01. *Title.* An ordinance of the Board of County Commissioners of Rockingham County, North Carolina, entitled, "Voluntary Farmland Preservation Ordinance."

Sec. 42.05.02. *Authority.* The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-744 and Chapter 153A.

Sec. 42.05.03. *Purpose.* The purpose of this ordinance is to promote agricultural values and the general welfare of the county and more specifically, to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

Sec. 42.05.04. *Agricultural Advisory Board*

a. Creation and Membership. The Board of Commissioners hereby establishes a Rockingham County Agricultural Advisory Board consisting of three to seven members appointed by the Board of Commissioners to implement the provisions of this ordinance.
b. Membership Requirements.
    1. Each Advisory Board member shall be a Rockingham County resident, at least eighteen years of age, and an owner of qualifying farmland in the county.
    2. Each Agricultural Area as described in Article VI shall have a representative on the Advisory Board.
    3. At least fifty-one percent of the Advisory Board members shall be actively engaged in farming.
    4. The Advisory Board members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Rockingham County Farm Bureau, Soil and Water Conservation District/Natural Resources Conservation Service, or the Cooperative Extension Service with an effort to have the broadest geographical representation possible.
    5. Members shall serve terms of three years, except that initial board members may serve staggered terms of one, two or three years and members appointed to fill vacancies shall be appointed for the remainder of the unexpired term. After the initial appointment, members may serve a maximum of two consecutive terms after which the member must be off the board for at least one year before being eligible for re-appointment.
    6. Members of the Advisory Board serve at the pleasure of the Board of Commissioners.
    7. The Board of Commissioners may fix the per diem compensation, if any, of the members of the Advisory Board and may appropriate funds to the Advisory Board to perform its duties.
c. Advisory Board Procedure.
    1. The Advisory Board shall elect a chairperson at its first meeting each fiscal year to preside over all regular or special meetings of the Advisory Board and may elect additional officers as needed.
    2. The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.
    3. The Advisory Board shall use the Rockingham County fiscal year (which is currently July 1 through June 30th) as its meeting year.
    4. Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by the effected Advisory Board member.
    5. The concurring vote of a majority of the members of the Advisory Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official

or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this ordinance.

6. The Advisory Board shall keep minutes of the proceedings showing the vote of each member and shall keep records of its examinations and other official actions which shall be filed in the Office of the Advisory Board.
7. The Advisory Board may contract with the Soil and Water Conservation District Office or other appropriate County agency for record keeping, correspondence, application procedures or for other services the Board needs to complete its duties.

d. Duties. The Advisory Board shall:
   1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
   2. Conduct public hearings specifically permitted or required under this ordinance;
   3. Advise the Board of Commissioners (at least annually) on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
   4. Review and make recommendations concerning proposed amendments to this ordinance and/or draft a countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) (1) for presentation to the Board of Commissioners;
   5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
   6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

Sec. 42.05.05. *Creation.*

Voluntary agricultural districts may be created that meet the following standards:

a. Each District, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation: 5 acres for horticulture use, 10 acres for agriculture use, or 20 acres for forestry use. When considering acreage, leased and/or rented land for the purpose of agriculture will be considered.
b. The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with the requirements of this ordinance in a form approved by the Advisory Board.
c. Once a qualifying tract is registered and accepted into the program it shall be designated as an agricultural district and identified as lying within one or more of the following Agricultural Areas:
   Area 1- consisting of the townships of Williamsburg, Reidsville, and Simpsonville.
   Area 2- consisting of the townships of Ruffin, Wentworth, and New Bethel.
   Area 3- consisting of the townships of Leaksville, Price, Mayo, Madison, and Huntsville.
d. The county may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.
e. In the event one or more participants in a District withdraws and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm in that district.

Sec. 42.05.06. *Public notice.* Upon approval of a District, appropriate maps shall be updated so that a person wishing to ascertain the proximity of a particular tract to a District may do so. Such maps shall contain a notice as follows: “Rockingham County has established Agricultural Districts to protect and preserve agricultural, silvicultural, horticultural and livestock lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain

agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery, tractor, truck operations, livestock operations, sawing, and similar activities may take place in these districts." Agricultural District maps shall be maintained in the offices of the Rockingham County Planning Department with copies or access being available for the convenience of the public in other county offices such as the Register of Deeds Office, Soil Conservation District Office, and Cooperative Extension Office as recommended by the Agricultural Advisory Board and approved by the Rockingham County Commissioners.

Sec. 42.05.07. *Certification.*

In order for farmland in Rockingham County to qualify for participation under the terms of this program, it shall meet the following requirements:

a. The farm property is participating or is eligible to participate in the farm present-use-value taxation program;
b. The property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:
    1. Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops, including Christmas trees and ornamentals;
    2. Have good soil qualities;
    3. Are favorable for all major crops common to the county where the land is located;
    4. Have a favorable growing season; and
    5. Receive the available moisture needed to produce high yields for an average of eight out of ten years.
c. As an alternate to requirement 2 above, at least two-thirds of the property has been actively used in agricultural (which includes the commercial production or growing of crops, plants or animals under a sound management program), horticultural or forestry operations as defined by N.C.G.S. §105-277.2 (1), (2) and (3) during each of the five years immediately previous to the date application is made;
d. The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and
e. The property is the subject of a conservation agreement, as defined in N.C.G.S. §121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning, subdivision and development regulations. The property owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Section 42.05.09.

Sec. 42.05.08. *Application, Approval and Appeal*

a. A landowner may apply to participate in the program by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board and accompanied by documentation to establish eligibility as required by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
b. A conservation agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.
c. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within ninety days to approve or disapprove the application. The chairperson or designated staff person shall notify the applicant by first class mail of approval or disapproval of participation in the district within two weeks of the Advisory Board's determination.

d. Upon receipt of an application, the chairperson or designated staff person will forward copies immediately to the following offices which shall have a period of twenty days to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application: The Rockingham County tax assessor, The Rockingham County Soil and Water Conservation District office, and The Natural Resources Conservation Service.
e. If the Advisory Board denies an application, the petitioner shall have thirty days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

Sec. 42.05.09. *Revocation.*

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke a Preservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article X for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a voluntary agricultural district.

Sec. 42.05.10. *Public Hearing.*

To implement N.C.G.S. §106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a district until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation. Within thirty days of receipt of a request to hold a public hearing on a proposed condemnation, the Advisory Board shall hold a public hearing and submit its findings and recommendations to the condemning agency. The Advisory Board shall meet to review:

a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the district within which the proposed action is to take place.

The Advisory Board may consult with the Rockingham County Farm Bureau, the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action. Pursuant to N.C.G.S. §106-740, the condemning agency may not formally initiate a condemnation action during the period of time, not to exceed thirty days, while the proposed condemnation is properly before the Advisory Board.

Sec.42.05.11. *Notification.*

Upon approval of a district, appropriate maps shall be updated within a reasonable time so that a person wishing to ascertain the proximity of a particular tract to a district may do so. The Advisory Board may cause signs to be placed along public roadways to notify the public of the presence or proximity of a district. In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance. In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

Sec. 42.05.12. *Designation of Districts on Development Plans.*

Developers of major subdivisions or planned unit developments shall designate on preliminary and final development plans and plats, the existence of farmland preservation districts within one aerial mile of the boundaries of the proposed development.

Sec. 42.05.13. *Waiver of Water/Sewer Assessments*

A landowner belonging to the District shall not be assessed for or be required to connect to Rockingham County water and/or sewer systems. Water and sewer assessments shall be held in abeyance, without

interest, for farms inside a district, until improvements on such property are connected to the water or sewer system for which the assessment was made. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under G.S. §160D or other applicable law. To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

Sec. 42.05.14. *Consultation.*

The Advisory Board may consult with the Rockingham County Farm Bureau, North Carolina Cooperative Extension Service, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

Sec. 42.05.15. *State Agency Notification and Annual Report.*

A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services after adoption. At least annually, the Advisory Board shall submit a written report to the Board of Commissioners for forwarding to the North Carolina Commissioner of Agriculture on the county's agricultural district program, including the following information: number of landowners enrolled; number of acres enrolled; number of acres certified during the reporting period; number of acres denied during the reporting period; number of acres for which applications are pending; copies of any amendments to the ordinance; and any other information the Advisory Board deems useful.

DIVISION 3. - MIXED USE CONDITIONAL DISTRICT

Sec. 43.01. - Generally.

(a) *Purpose. It is the intent of this article to establish special districts for the purposes of:*
   (1) *Protecting existing or proposed character or principal views of, from or through the areas;*
   (2) *Protecting buildings and their visual environment where there is special and substantial interest in; or*
   (3) *Creating higher development standards to accomplish the purpose for which the special district is established.*
   (4) *Promoting the purposes set out in the adopted plans of the county and to encourage land use and development in substantial accord with the physical design set out in the plans.*

(b) *Special district regulations.* The special district regulations are designed to promote the intent of the district, as set out in each district's purpose statement. In particular, such regulations may require submission of Concept Site Plans, building plans and elevations, and maps indicating the relation of proposed development to surrounding or otherwise affected property in terms of the following:
   (1) Policies of the Land Use Plan and any other adopted plans;
   (2) Location, amount, character, and continuity of open space;
   (3) Protection of desirable principal views;
   (4) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets;
   (5) Separation of pedestrian and vehicular traffic;
   (6) Signs;
   (7) Lighting;
   (8) Mixtures of proposed uses; and
   (9) Other matters appropriate to determine the relation of the special interest district and the objectives to be promoted.

(c) *Procedure for approval of special districts.* Applications for special districts will be processed as a zoning map amendment (rezoning); therefore, the procedures outlined in section 33 must be followed.

Sec. 43.02. - Reserved.

Sec. 43.03. - Mixed Use District

(a) Purpose: The mixed use conditional district (which may be referred to as a planned development district) is established to encourage the master planning of large scale, multiple and/or mixed-use development patterns. Applicants who propose such a district have more flexibility and creativity in design than is possible under conventional zoning regulations. The planned development process:
   (1) Encourages for the layout of uses and open space that promote high standards in design and construction which furthers the purposes of the adopted county land use plan.
   (2) Encourages well planned, efficient development to promote economical and efficient land uses.
   (3) Allows a planned and coordinated mix of land uses which are compatible and are harmonious, but are not allowed by conventional zoning districts.
   (4) Encourages the development of contiguous large lot parcels into an integrated and orderly pattern, with particular attention to developing an efficient and coordinated network of internal streets.
   (5) Promotes the clustering of structures and other uses in order to preserve unique and natural features such as woodlands, wetlands, natural drainage systems and scenic areas.
   (6) Reserves adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets.
   (7) A Planned Conditional Development is defined based upon the following general characteristics:
      a. Aggregate size and number of non-residential buildings.
      b. Mixture of housing types including single family with multifamily.
      c. A combination of uses such as retail/commercial with residential or office uses.

Sec. 43.03.01. - Applicability.

Developers may request conditional zoning for a planned mixed use district when one or more of the following factors are proposed:

(a) The developer wishes to propose a project with a mix of use that would not be allowed in a general use zoning district; and

(d) A mix of housing types and commercial development in which zero lot line development would be appropriate.

Sec. 43.03.02. - General Criteria and Minimum Standards.

a. All uses within a conditional mixed-use zoning district shall be identified at the time of zoning amendment application and set forth as zoning conditions.

b. Applicants are encouraged to provide a variety of sizes, types, and styles of housing to promote a balanced community.

c. All other uses shall be determined by the compatibility of such uses with each other and withsurro unding land uses and shall conform to policies established in the Rockingham County Land Use Plan.

d. PUD districts may be established in accordance with the general procedures and requirements set forth in this article and the following criteria: Procedure requirements in section 33.03 (conditional zoning process) must be met. Site plans shall be included within the application. These districts should be located within easy access to expressways, arterial and collector streets to provide direct access to and from the district without creating traffic along surrounding local streets in residential neighborhoods.

Sec. 43.03.03 - Plan consistency.

a. The district may be considered in any designation identified within the Land Use Plan's Future Land Use Map.

b. Consideration is given to the existing and prospective character of surrounding development to help protect property values in surrounding neighborhoods.

c. *Concept Site Plan relationships.* Mixed-Use districts must be proposed according to site plans which include amenities such as streets, utilities, lots, buildings, parking, service areas, landscaped open space and their relationships to each other. Plans for other uses and improvements, along with a program for provision, operation, and maintenance of such areas whether for public or private use, must also be provided.

d. The normal lot size, setbacks and frontage requirements shall be waived for lots or building sites within the planned development, provided that the spirit and intent of this article are upheld in the total development plan.

e. Every dwelling unit shall have access to a public or private street, walkway or other area dedicated to common use, and there shall be provision for adequate vehicular circulation to all development properties, in order to ensure acceptable levels of access for emergency vehicles.

f. Every planned development shall provide at least two (2) off-street parking spaces per dwelling unit and commercial/office parking and loading space according to the following schedule.

    (i) One (1) off-street parking space for each two hundred (200) square feet of gross floor area for operations designed to attract and serve customers and clients on the premises

    (ii) One (1) space for each four hundred (400) square feet of gross floor area for operations designed to attract little or no customer or client traffic other than employees of the operation.

    (iii) One and one half (1.5) spaces per bedroom for hotels, motels, and inns; one and one half (1.5) spaces per three (3) employees for industrial and warehouse uses.

    (iv) Parking spaces shall be a minimum of nine feet by eighteen feet (9' x 18') in size.

(v) Loading/unloading space for commercial/ office uses shall consist of one (1) space at least three hundred (300) square feet in size for each five thousand (5000) square feet of gross floor area.

(vi) Parking and loading areas for all multi-unit buildings shall be accessible to fire department apparatus through the use of fire lanes or other means of access approved by the County Fire Marshal /Emergency Management Office.

(2) Development must adhere to the impervious surface area limitations within any protected watershed overlay (see section 42.02).

(3) Open space for passive or active recreation is encouraged.

ARTICLE V. - DEVELOPMENT STANDARDS

Purpose: This article consolidates standards for development approval relevant to all uses, except for single- and two-family housing on individual lots or subdivisions. Standards include design, screening and buffering, infrastructure improvements, parking, natural resource protection, and signage. Some uses are also subject to standards in Article VI, Supplemental Standards.

DIVISION 1. - GENERAL

Sec. 51.01. - Applicability.

(a) This article applies to all new development or expansions to existing development when the expansion cumulatively is equal to or greater than 50 percent of the existing aggregate leasable floor area of all structures on the development parcel. If the expansion is less than 50 percent then the requirements of this Article apply only to the expansion area. If the expansion is less than ten percent no additional improvements are necessary.

(b) No part of a setback, area, open space, or off-street parking and loading space required for one structure or use can be included as meeting requirements of another, except where specific provisions are made in this chapter.

DIVISION 2. - SITE DESIGN GENERALLY

Sec. 52.01. - Applicability.

This division applies to site design for streets, blocks, lots and structures.

Sec. 52.02. - Conservation, erosion, sedimentation and stream buffers.

(a) *Purpose: Site design is encouraged to incorporate good design practices which consider: conservation, environmental protection and preservation of steep slopes and watersheds by utilizing best management practices. Designs should:*

(1) *Implement the Rockingham County Land Use Plan by protecting environmental resources and agricultural land;*

(2) *Protect public health and safety by guarding against environmental degradation resulting from the inappropriate development patterns such as soil erosion and sedimentation, impaired water quality and reductions in air quality; and*

(3) *Implement official state policy to conserve and protect lands and waters for the benefit of all citizens, to control and limit the pollution of air and water, and to protect forests, wetlands, historical sites, open lands, and places of beauty.*

(b) Developments must meet state and federal requirements for soil, erosion and sedimentation control;

(c) Developments must provide stormwater management facilities where required by the National Pollutant Discharge Elimination System (NPDES) regulations, North Carolina Environmental Management Commission, and any stormwater management ordinances or regulations adopted by the County after the effective date of this UDO.

(d) Developments must meet requirements of the watershed protection overlay district (section 42.01), where applicable.

(e) In any grading or filling operations, desirable topsoil must be conserved and redistributed, particularly to cover exposed subsoils.

(f) Vegetation preservation.

(1) Trees, shrubs and ground cover existing at the beginning of development should be preserved to the maximum extent feasible.

(2) Clear cutting is discouraged in new low-density subdivision developments with the exception of the building envelope to include the housing units, accessory structures, necessary roads, septic systems, wells, public utilities and active recreation.

(g) Stream buffers—Perennial. Vegetation in a 30-foot wide segment adjoining all perennial streams, as defined on the USGS topographic maps, must be retained at a minimum for all new developments.

However, a 50-foot buffer is required within the Jordan Lake Overlay District (sec. 42.03). Access to water dependent structures and activities is allowed.

Sec. 52.03. - Suitable building sites.

Lots for buildings must contain suitable building sites. In determining whether the site is suitable for building, the following will be used:

(a) Area outside of required setbacks;
(b) Area outside designated floodplain area;
(c) Area outside of power line and other utility easements;
(d) Topography;
(e) Configuration reasonably adapted to building; and
(f) Ability to accommodate on-site water and wastewater systems whether public or private.

Sec. 52.04. - Unsuitable building sites.

Where a lot or parcel is not intended for residential or nonresidential building purposes, such as a utility substation or community well lot, the lot must be identified on the plat and noted: "Not for residential or nonresidential building purposes."

Sec. 52.05. - Arrangement and location of structures.

(a) All buildings and other structures, land preparation, and landscaping must be located and arranged on lots to provide safe and convenient access for emergency purposes, fire protection, servicing, and off-street parking and loading located on the premise.
(b) No private land in residential zoning district may be used for vehicular or pedestrian access to land or structures that are not permitted in that district.
(c) Structures including buildings, mausoleums, and columbaria adjacent to or within cemeteries shall be setback a minimum of ten feet from the edge of a gravesite's crypt, vault, or grave marker.

Sec. 52.06. - 52.13. - Reserved.

DIVISION 3. - INFRASTRUCTURE AND IMPROVEMENTS

Purpose: This division establishes requirements for infrastructure improvements, dedication, reservation and minimum design standards.

Sec. 53.01. - Applicability.

(a) This division ensures that infrastructure improvements are provided as a result of the demands created by the development project.
(b) Before final plat or site plan approval, each development must complete construction of the required improvements that apply to the classification of the development submitted and all conditions of approval.
(c) The improvements must be installed and paid for by the developer, unless other means of financing are approved by the county.
(d) Each concept and Detailed Site Plan must comply with the minimum standards of design established by the UDO.

Sec. 53.02. - Access management.

(a) Purpose: Access management serves to:
  (1) Improve the efficiency of roadway systems;
  (2) Minimize traffic congestion;
  (3) Avoid unsafe traffic circulation conditions by regulating the number of access points for new development;
  (4) Enhance the emergency services and access between sites;
  (5) Provide improved in*ternal circulation and parking capabilities; and*
  (6) *Reduce conflict points and increase distance between driveways.*
(b) *Applicability.* This section applies to all development and subdivisions, except for family subdivisions and estate settlements.

(c) *Shared driveways.* Adjacent property owners may construct a shared driveway by written mutual agreement to serve both properties.

(d) *Out-parcels.* Access to "out-parcels" as part of a larger development should be provided from the development's internal circulation system dependent upon:

(1) Length of road frontage adjacent to the development; or

(2) Location of the out-parcel relative to the internal circulation system.

(e) *Internal circulation.* Internal street systems or service roads must be constructed where they would eliminate or reduce multiple-lot access connections directly to a state maintained road.

(1) The technical review committee or approval board may grant an exception to subsection (d)(1) above based on topography, water features, road classification, connectivity or surrounding development patterns.

(2) A large tract in single ownership, not separated by a state road, cannot be subdivided for the purpose of circumventing the requirement in subsection (d)(1) above.

(f) *Reserve strips.* Reserve strips (spite strips) of land for the sole purpose of controlling access to streets or circumventing right-of-way dedication are prohibited.

(g) *Half streets.* Half streets are prohibited, except where the technical review committee determines that it will be practical to construct the other half of the street when the adjoining property is developed.

(h) *Permits for connection to state roads.* An approved NCDOT driveway connection permit is required for any change of use or connection of a nonresidential, multifamily, duplex and major subdivision development street to any existing state system road. This permit is required before any construction which connects the development road to the state system road, whether that development road is public or private.

(i) *Marginal access street.*

(1) Where a tract of land to be subdivided adjoins a principal arterial, minor arterial or major thoroughfare as designated on urban area transportation plan or the county thoroughfare plan, the subdivider must:

a. Provide a collector road parallel to the arterial/thoroughfare, or

b. Utilize the development's public road for access to double frontage lots.

(2) Where double frontage lots are utilized, private driveways cannot have direct access to the arterial/thoroughfare, thus avoiding the creation of driveways along the higher classified road. When it is not feasible for the subdivider to provide a collector road or utilize double frontage or when the board determines that the installation of such would result in a less desirable development design, the review committee may grant an exception to this requirement. The review committee must find that the spirit and intent of this section are met and the circumstances particular to the subject property, such as topography, shape of the tract, water features, or surrounding development patterns warrant the exception.

Sec. 53.03. - Road standards.

(a) *Applicability.* This section applies to any development, subdivision or any other action that requires construction of internal roads.

(b) *Designation.* All road rights-of-way must be designated in writing on the face of the plat as being one of the following:

(1) *Dedicated public ROW.* A right-of-way that has been dedicated to the public, but does not necessarily refer to construction status or infer the acceptance for maintenance by NC DOT.

(2) *State road.* A constructed road with a designated "SR" number which is being maintained by NCDOT.

(3) *Private road.* A constructed road that is not dedicated to the public and will be maintained by an entity other than NC DOT. See subsection (d) below.

(c) *Roads standards within major subdivisions and non-residential developments.*

(1) All roads must have a dedicated public right-of-way and be constructed to minimum NC DOT standards.
(2) The construction of alleys and service roads must meet applicable NC DOT standards unless otherwise regulated by Conditional zoning and approved by local emergency service professionals.
(3) Roads must be maintained by the developer, owner(s) or homeowners' association until the NCDOT assumes responsibility for the maintenance. Maintenance responsibility must be noted on the final plat/plans.
(4) Roads that are not eligible to be accepted into the NCDOT system must still be dedicated for public use and be built in accordance with NCDOT standards. Where a road has been offered for public dedication, that offer may not be withdrawn without prior review and approval from the Community Development Director.

(d) Road standards within minor subdivisions.
(1) Up to five (5) parcels may be accessed by a named and approved private road. There are no specific road standards required for a private road, but a 30' private wide right-of-way must be dedicated and recorded by plat.
(2) Prior to being approved by NC DOT for state maintenance, roads in major subdivisions must be maintained by the developer, a homeowners' association or according to a road maintenance agreement. At a minimum, the maintenance agreement must include the following:
a. A legally incorporated homeowners' association must be established for the property owners within the entire development;
b. All property owners within the development must be members of the homeowners' association;
c. The developer must convey, in a fee simple ownership, all private roads within the development to the homeowners' association;
d. The homeowners' association must have the responsibility for all maintenance of private roads.

[Amended September 19, 2021]

Sec. 53.04. - Street connectivity.

Purpose: In general, interconnected developments provide for improved traffic flow, safety, reduce overall traffic congestion, provides access within and between adjoining developments and may be required by the county approving authority.

(a) *External connectivity.* The Technical Review Committee, relying on reference to NC DOT minimum standards, may require multiple accesses into a development to provide additional ingress and egress to ensure adequate access for emergency services. In determining whether to require multiple accesses, the following shall be considered:
(1) The overall number of lots served by the street system;
(2) The proposed street system pattern;
(3) The configuration and natural features of the tract of land;
(4) The amount of road frontage available; and
(5) The classification of NCDOT roads.
(6) In some instances, a separate graveled and gated 30-foot access may be approved for emergency vehicle access.

(b) *Internal connectivity.* Internal connectivity is needed for convenient access, circulation, traffic control and safety.
(1) *Projecting streets.*
a. It is strongly encouraged that parcels be arranged to allow for the opening of future streets and further development.

b. Where adjoining areas are subdivided, proposed development must connect to adjoining stub outs or existing streets, subject to subsection d. below. The following applies:
    1. Streets in the proposed development should align with the existing adjoining streets.
    2. A reciprocal agreement is encouraged, but not required, indicating the road maintenance responsibilities for each subdivision using the interconnected road network. If such an agreement is made, it shall remain in force until NCDOT accepts maintenance responsibilities of the road(s).
    3. The road used for interconnectivity between the adjoining subdivisions should be for purposes of a secondary access and not be used as the primary entrance to the subdivision.

c. Where adjoining areas are not subdivided, the arrangement of streets in the development must provide for the projection of streets stubbing to adjoining un-subdivided areas, subject to subsection d. below. Where stub out roads are required to be extended to the adjoining property line, the stub out must be:
    1. Dedicated with a continuous minimum NCDOT approved right-of-way to the property line in addition to right-of-way for the turn-around (cul-de-sac preferred or hammerhead); and
    2. Constructed to NCDOT standards including an improved turn-around which must qualify for inclusion into the NCDOT maintenance system.

d. Continuation of an existing street or projection of a new street is not required where it would cause a street to project into a floodplain, topography constraints, other natural features or where other limitations or factors would prohibit the practical connectivity as determined by the county approving authority.

Sec. 53.05. - Easements and underground utilities.

(a) *Exclusive Use Easement.* An easement in which one property owner grants one other property owner permission to cross the grantors property to access the grantee's property. Muse be approved by the Community Development Director and be recorded by official plat, including a 20-foot wide right-of way.

(b) *Utility easements.* Utility easements must be noted on final development plans. The easements must be sufficiently wide to provide for installation of such utilities and access for maintenance and operation.

(c) *Utilities in drainage easements.* Utilities in drainage easements are permitted only upon specific authorization from the reviewing board and only in the locations authorized. The reviewing board may approve utilities in drainage easements where it determines that adequate measures have been taken to avoid erosion, flooding, or other situations that would damage the utilities.

Sec. 53.06. - Fire protection.

All lots served by a municipal or county public water supply system must adhere to applicable fire protection regulations and the policies of the Rockingham County Engineering and Public Utilities Department.

Sec. 53.07. - Lighting standards.

Purpose: This section provides requirements for development to control light spillage and glare so as not to adversely affect motorists, pedestrians, and owners of adjacent properties.

(a) *Generally.*

(1) Subsection (b), (c) and (d) below apply to nonresidential and multifamily development. Subsection (e) below applies to new single-family residential subdivision development only.

(2) All fixtures must be either semi-cutoff or full-cutoff fixtures only.

(3) No fixture for nonresidential or multifamily development can be located within 20 feet of a residentially zoned property.

(b) *Outdoor illumination of building, landscaping and signs.* The following provisions apply to the outdoor illumination of buildings, landscaping and signs:
(1) When approved, exterior lighting should be integrated with the architectural character of the building where possible.
(2) Lighting shall be directed away from any adjacent residentially zoned parcels.
(3) Signs may be illuminated by indirect light.

(c) *Lighting for convenience store aprons and canopies.* In addition to the provisions of subsections (a) and (b) above, the following provisions apply:
(1) Recessed ceiling lights are encouraged; however, as an alternative indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
(2) The lighting for new facilities (pump islands and under canopies) cannot exceed the average horizontal illumination of ten foot-candles at grade level.

(d) *Prohibited lighting and fixtures.* The following are prohibited:
(1) Vertical burn lamps and similar lighting fixtures.
(2) Flashing, strobing, colored or obtrusive lighting.
(3 The use of laser source light or any similar high intensity light for outdoor advertising or entertainment.
(4) The operation of searchlights for advertising purposes.
(5) Black lights and neon lights (including argon and similar rare-gas fixtures), except for signage.

(e) *Single-family residential development.* When a common form of street lighting is provided in single-family residential subdivisions, it must be low-level intensity and consist of uniform fixtures. This section does not apply to individual residential lighting.

DIVISION 4. - LANDSCAPE BUFFERS AND SCREENING

Sec. 54.01. - Landscaping standards.

Purpose: Landscaping, visual screening and buffers must be provided for all nonresidential and multifamily uses for the following:

- *Remove, reduce, lessen or absorb the impact between one use or zone and another;*
- *Break up and reduce the impact of large parking areas with vegetated areas;*
- *Provide aesthetic and visual interest;*
- *Obscure the view of outdoor storage, dumpsters, parking and loading areas;*
- *Provide protection from soil erosion, radiant heat, glare from headlights, noise pollution, storm water drainage problems; and*
- *Improve the landscape resulting from the impacts of development and disturbance.*

(a) *Applicability.*
(1) This Section applies to all new non-residential construction and modification to non-conforming non-residential construction that costs more than 50% of the building value.

(b) *Generally.*
(1) Required landscaping cannot obstruct visibility and appropriate sight distance at intersections.
(2) In providing the vegetation required by this division, the retention of existing significant vegetation is encouraged.
(3) All dead or dying trees, stumps, litter, brush, weeds or other nuisance materials must be removed from the site at the time of occupancy.
(4) All roadway slopes must be landscaped and all cuts and fills must be designed and/or vegetated to be sufficient to prevent erosion.

(5) Developments are encouraged to utilize existing topography, such as hills, ridges and berms, to screen parking and maintenance areas to the maximum extent possible.
(6) All landscaping and screening which provide buffering and screening must be maintained as depicted on the Detailed Site Plan. All landscaping and screening must [be] maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to individual(s), a homeowners' association or other responsible entity. Sustainable maintenance systems, such as rain barrels or cisterns, which are architecturally compatible with the structure, are encouraged.
(7) All plant material used must be classified as safe to use in USDA hardiness zone seven or less, to ensure they can survive an average minimum temperature of zero degrees Fahrenheit. Drought tolerant plant materials are encouraged.

(d) *Perimeter landscaping requirements for parking facilities when abutting residentially zoned or developed lots.*
(1) *Rear yard.* The perimeter of surface parking lots and the ground level of parking decks must be landscaped by a vegetative strip a minimum of eight feet in width. The landscaping strip must consist of 75 percent evergreens planted in a single or staggered row a minimum of six feet apart. The remaining 25 percent may consist of ornamental trees or deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip. The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three feet in height in order to address safety and visibility issues.
(2) *Front or side yard.* The perimeter of surface parking lots and the ground level of parking decks must be landscaped by a vegetative strip a minimum of 12 feet in width, exclusive of abutting reserved or dedicated right-of-way. The landscaping must include a staggered double row of vegetation which includes 75 percent low-growing evergreen shrubs planted six feet on center. The remaining 25 percent of the vegetation may be planted with ornamental trees or low-growing deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip. The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three feet in height in order to address safety and visibility issues.
(3) Manicured turf, crushed brick, stone, ground-hugging vines or shrubs, ground cover, annuals, perennials, ornamental grasses, rock or wood mulch must cover the balance of the area.
(4) Where the parking facilities are within 35 feet of the perimeter buffer abutting the side or rear yard, the parking perimeter landscape strip may be deleted.

(e) *Internal parking area landscaping.*

Parking lots shall be adequately constructed to support shade trees, which reduce the negative environmental impacts of impervious surface area and improve the aesthetics of parking lots. A parking lot over 5,000 square feet in size shall provide an interior landscaped area located and landscaped in such a manner as to divide and break up the expanse of pavement and to provide for safe movement of vehicles and pedestrians. The following regulations shall apply to parking lots requiring interior landscaping:

a. Parking lot areas shall contain a minimum of five (5) percent interior landscaping in addition to any required buffer (perimeter) landscaping. A required buffer landscaping shall not be credited toward the interior parking lot landscaping requirements The five (5) percent interior parking lot landscaping requirement calculations shall be shown on the site plan.
b. Turf, ground cover, perennials, ornamental grasses, crushed rock or mulch must cover the balance of the landscape island. Each vegetated island shall contain at least major one evergreen tree.

c. No more than 20 parking spaces in a single row may be provided without an intervening planting bed or island.
d. Required trees shall be located in islands or medians, between rows of parking spaces, and/or at the end of parking bays. Planting beds may be used to define pedestrian or vehicle traffic flows within the lot.
e. Planting beds or islands shall be a minimum inside dimension of nine feet by eighteen feet (9' x 18') in area, underlain by soil (not base course material) prepared to a minimum depth of twenty–four (24) inches. Alternatively, structural soil and/or irrigation may be used to aid in the sustainability of the vegetation.
f. Parking facilities in industrial zoning districts shall be exempt from any interior parking lot landscaping requirements.
g. Licensed automobile dealerships shall not be considered parking lots for purposes of this section, and therefore do not require interior landscaping.

(f) *Parcel perimeter buffer.*

(1) *Buffer requirement.* The following landscape buffer requirements apply to commercial, industrial and institutional uses and zoning, with the exception of multi-family housing developments. They do not apply to single-family or two-family residences located on individual lots or within approved subdivisions.

(2) *Width of vegetative buffer area.* Each required vegetative buffer area must have a minimum width of 15 feet, except for perimeter buffers for multi-family dwelling units, which only require a 10 feet width.

(3) *Screening.* Screening within the buffer area must consist of one of the following to create a solid screen:

a. A dense vegetative planting incorporating trees and/or shrubs of a variety that must be equally effective in winter and summer to achieve a solid continuous visual screen within five years after the initial installation.
(i) All plant materials must be a conifer or broadleaf evergreen to achieve a minimum height of six feet within five years.
(ii) Trees and/or shrubs must be adequately spaced.
(iii) If a buffer area is greater than 100 feet in length, more than one species of plant material is required in order to minimize insect and disease infestations.
(iv) One ornamental tree or large canopy tree is required for every 150 linear feet of buffer area. It may be planted in the buffer area or in the immediate adjacent area. It shall meet the following minimum standards:
i. Each tree, at the time of installation, must have a clear trunk height of at least five feet and a minimum caliper DBH of two inches or a 15-gallon container size or balled and burlapped at time of planting.
ii. Mature height must be at least 20 feet unless overhead utilities are in the planting area.

b. No additional buffering is required if:
(i) Existing vegetation, located on the subject property, affords the degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that found in a. above; or

c. A six-foot opaque structure such as a solid masonry wall, or a solid fence that is compatible with the principal structure. Chain link fencing cannot be used to meet this requirement; or

d. A maintained, three-foot earthen-mound or berm with vegetation to achieve a six-foot screen with a minimum base width of 12 feet. This mound or berm cannot impound stormwater runoff or direct runoff to adjacent properties. All plant materials must be

evergreen and a minimum three-gallon in size and two feet in height at the time of planting. Trees and/or shrubs shall be adequately spaced to form a solid continuous visual screen within three years after the initial installation. If a buffer area is greater than 100 feet in length, more than one species of plant material is required in order to minimize insect and disease infestations.

4. Where a place of worship or school is proposed on a lot adjoining a vacant or built upon lot, it can be exempted from the perimeter buffer requirements if the following conditions are met:
   a. Adjoining landowners execute a written acknowledgment of their consent to the waiver of such screening criteria and provide a copy to the Community Development Department; or
   b. Where topography exists such that the effect of the screening cannot be achieved as determined by the Community Development Director.

(g) *Street trees.*

(1) *Multifamily or nonresidential.* Street trees must be planted in all multifamily or nonresidential developments. All development fronting an external road must provide the following along all street frontages:
   a. A ten-foot (minimum) landscape strip behind the right-of-way (within the front setback).
   b. Street trees must be planted adjacent to the right-of-way and must meet the following.
      1. An average of one evergreen and/or shade tree is required for every 50 linear feet of road frontage on each side of the street, interplanted with ornamental shade trees and/or shrubs and perennials. Where overhead lines are present, trees of low-growing varieties must be planted an average of one tree for every 30 feet of street frontage on each side of the street. Trees should be spaced approximately equal distance and according to mature width and height estimations.
      2. Each tree, at the time of installation, shall have a clear trunk height of at least five feet and a minimum caliper of two inches or a minimum 15-gallon container size or balled and burlapped at time of planting. A mulch bed must be provided around the tree.
      3. In the absence of overhead lines in the planting area, evergreen trees should achieve minimum mature height of 30 feet. Shade trees should achieve a mature height of at least 20 feet and a mature spread of at least 10 feet. Ornamental shrubs and/or perennials may be included in the landscape barrier.
      4. All trees planted within the public right-of-way shall require approval by NCDOT through an encroachment agreement.
      5. Whether planted within or outside of the public right-of-way, trees and shrubs must be maintained by the developer, unless or until maintenance responsibilities are transferred or assigned to individual(s), a homeowners association or other responsible entity.

(h) *Alternative buffers and screening.* In lieu of the buffer and screening requirements in subsection (3) above, an applicant may submit to the Community Development Director for their review and approval a detailed plan and specifications for landscaping and screening. The Community Development Director may approve the alterative buffering and screening, in writing, upon finding that the proposal will afford a degree of buffering and screening, in terms of height, opacity and separation, equivalent to or exceeding that provided by the requirements.

Sec. 54.02. - Central solid waste storage area.

For commercial and industrial development, where waste storage facilities are provided outside of a building, they must be screened from public rights-of-way and adjacent property by an enclosure constructed of materials compatible with the materials on the front building wall of the principal building. This requirement can be met by placing central waste storage facilities in the rear of any structures when fully landscaped or screened with an opaque fence exceeding the height of waste containers to prevent visibility from adjacent parcels zoned or occupied as residential.

Sec. 54.03. - Screening of loading and service areas.

Service areas and unsightly and noisy elements shall be located away from the streetscape, at the rear of buildings, out of pedestrian view, and shall be screened with landscaping or architectural elements. Elements to be screened include, but are not limited to, service areas, loading docks, dumpsters, outdoor storage, utility meters, and satellite equipment. HVAC systems shall be located on the roof or to the rear or side of structures, with proper landscape and/or architectural element screening. All architectural screening must coordinate with the material used in the building.

Sec. 54.04. - Screening of open storage.

Open storage in non-residential districts must be screened based on the principal use. Screening of the area used for open storage must meet the same requirements of subsections 54.01(f)(2) and (3). Open storage must be setback from adjoining property lines in accordance with the setback required for the principal structure.

Sec. 54.05. - 54.10. - Reserved

DIVISION 5. - PARKING

Purpose: This division ensures that businesses and residents have adequate parking, provides design and maintenance requirements, and reduces the impacts of excessive parking. This division establishes minimum number of parking spaces with flexibility for reducing the minimum spaces in unique situations, parking ratios, along with parking lot design, shared parking opportunities and similar standards.

Sec. 55.01 - Off-street parking.

(a) *Applicability.*

(1) This section applies to all applications for development approval, unless the application is specifically exempted by another provision of this chapter.

(2) The minimum parking requirements of this division apply to the entire development when the expansion cumulatively is equal to or greater than 50 percent of the existing aggregate leasable floor area of all structures on the development parcel. If the expansion of the leasable floor area is less than 50 percent, then the parking requirements apply only to the expansion area.

(b) *Compliance.*

(1) The developer is responsible for the construction and maintenance of the required off-street parking space and off-street loading space. This obligation continues while the structure or use is in existence.

(2) An owner of any structure cannot discontinue or change the required vehicle parking or loading spaces, apart from the discontinuance of the structure, unless alternative parking and loading space are approved as required by this division.

(c) *Methods of providing required parking.*

(1) All required parking must be located on the same lot as the principal use it serves, except as provided in subsection (c)(2) below.

(2) In lieu of actual construction of required on-site parking spaces, required parking for a use on a lot may be located on another lot if the requirements of subsections a. through e. below, are met. The offsite parking may be combined with parking for other uses, subject to approval by the Community Development Director.

a. The use being served by the off-site parking is a permitted principal use in the zoning district within which the lot containing such parking is located.

b. The off-site parking spaces must be located within 500 feet of a public entrance to the structure or land area containing the use for which such spaces are required.

c. A safe, direct, attractive, and convenient pedestrian route must exist or be provided between the off-site parking and the use being served.

d. The continued availability of off-site parking spaces, necessary to meet the requirements of this division, must be ensured by an appropriate reciprocal easement, satisfactory to the county attorney, and recorded with the register of deeds.

e. Off-site required, off-street parking cannot be separated from the use it serves by arterial or collector streets, as shown on the thoroughfare plan, or other similar physical barriers to convenient access between the parking and the use.

(d) *Minimum number of parking spaces.*

(1) *Schedule of off-street parking spaces.* The number of required off-street parking spaces are shown in table 55.01-1:

a. An exception to the number of parking space requirements may be considered for parking based upon documented industry standards or market studies.

b. Unless otherwise expressly stated in this Division, off-street parking spaces must be provided in accordance with the following schedule of minimum parking requirements.

c. When a parking requirement is stated in terms of employees, it means the maximum number of employees who will be at the site at one time either on a single shift or an overlap of shifts.

Table 55.01-1. Required Parking Spaces

USE	REQUIRED PARKING SPACES
Airfields and landing strips, no public terminals	1 per 5 planes
Airports, railroad passenger stations and bus terminals.	1 per each 4 seating accommodations for waiting passengers, plus 1 per each 2 employees on shift of greatest employment.
Automobile Service Stations.	1 per gasoline pump plus 2 per service bay. Driveway access to pumps and bays shall not be counted as off-street parking space.
Banks and similar financial institutions.	1 per 200 square feet of gross floor area, plus 3 per each drive-up window or ATM.
Baseball fields	20 per field.
Beauty and Barber Shops.	2 per beauty or barber chair, plus 1per employee.
Clubs & lodges.	1 per 4 members at design capacity or one per 200 square feet of gross floor area.
Combination Gasoline/ Convenience Stores	1.5 per gasoline pump plus 1 per each 200 square feet of gross floor area.
Day nurseries, day-care centers, and preschools.	1.5 per five pupils enrolled.
Dormitories.	1 per three (3) residents.
Drive through facilities.	Stacking space for 4 vehicles at each drive-in window, bay or lane.
Dry cleaners or laundry (self-service)	1 per 4 pieces of equipment for public use.
Dwellings, single-family, two-family, or multi-family.	2 per dwelling unit.
Emergency services such as police, fire, rescue squad, EMS, ambulance services	1 per employee on largest shift plus 5 spaces, or 1 per 250 square feet of gross floor area, whichever is needed as determined by the Community Development Director
Funeral homes.	1 per 40 square feet of floor area available for seating accommodations.
Government Buildings.	1 per 300 square feet of gross floor area.

USE	REQUIRED PARKING SPACES
Home Occupations.	3 spaces in addition to residence requirements if the occupation will attract customers or other members of the public.
Hospitals and Sanitaria.	1 per 2 beds.
Indoor commercial recreation.	1 per 150 square feet of gross floor area devoted to such use, or 1 per 4 seats or facilities available for patron use, whichever is greater.
Industrial, manufacturing, and wholesaling establishments.	1 per 2 employees on the shift of greatest employment, plus 1 space for each vehicle used directly in the conduct of such use. Additional parking spaces shall be provided for visitors equal to 5% of the employee parking when there are 40 or more employees.
Kennel	1 per each 400 square feet of gross floor area.
Medical and dental offices and clinics.	3 per doctor, plus 1 per employee.
Motels, hotels, and tourist homes.	1 per guest room and 1 per employee on shift of greatest employment.
Nursing homes, rest homes, homes for the aged.	1 per 3 patient beds at design capacity plus one per each employee during shift of greatest employment.
Office and professional buildings.	1 per 200 square feet of gross floor area.
Outdoor commercial recreation including Amusement Park and fair grounds.	1 per 3 persons that the facility is designed to accommodate when fully utilized (if measurement can be made) plus 1 per employee during the shift of greatest employment or 1 per 200 square feet of gross area used for activities not susceptible to such calculation.
Places of Public Assembly including Auditoriums, stadiums, assembly halls, gymnasiums, theaters, community recreation centers, churches.	1 per 4 fixed seats in largest assembly room or area, or 1 per 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or 1 per 150 square feet of gross floor area, whichever is needed by the facility as determined by the Community Development Director.
Post Offices.	1 per 200 square feet of gross floor area, plus 1 per 2 employees on the shift of greatest employment.
Public Libraries, Museums and Art galleries.	1 per 300 square feet of gross floor area.
Restaurants, diners, cafes, night clubs and other eating and drinking establishments.	1 per each 3 seating accommodations.
Retail stores and service businesses which do not fall into one of the specific categories in this subsection.	1 per 250 square feet of gross floor area.
Roadside stands, new and used car sales, house and truck trailer sales, outdoor equipment and machinery sales, rental or leasing facility, commercial nurseries.	2 per each salesperson on duty during period of greatest employment, plus 1 per 2 other employees during period of greatest employment.
Room renting and boarding houses.	1 per unit rented plus 1 per employee.
Schools, Elementary and junior-high	1 per 5 seats in the principal assembly room.

USE	REQUIRED PARKING SPACES
Schools, Senior high, trade and vocational colleges and universities.	1 per 3 students for which building was designed.
Swimming pool	1 per 75 square feet of pool surface area.
Veterinary services (clinic or hospital)	1 per each 300 square feet of gross floor area.

(e) *Determination for unlisted uses.* The determination for unlisted uses will be made as follows:

(1) The Community Development Director shall make a determination of the required off-street parking spaces for uses not listed in table 55.01-1.

(2) In making a determination, the Community Development Director will be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the proposed uses and studies of the parking requirements of such uses in other jurisdictions.

Sec. 55.02. - Joint-use facilities and shared parking.

(a) When two or more uses, either on a single parcel or multiple parcels, provide for shared parking spaces, the number of parking spaces required for each individual business as shown in table 55.01-1, may be reduced up to ten percent of the total number of spaces.

(b) An agreement for such joint use, in the form of a reciprocal easement acceptable to the county attorney, must be filed with the Community Development Director and recorded with the county register of deeds.

Sec. 55.03. - Parking standards.

(a) *Regular car parking.* The minimum dimensions for required off-street spaces at various angles are shown in the table 55.03-1 and illustrated in figure 55.03-2 below. In lieu of compliance with the parking requirements, an applicant may submit to the Community Development Director for their review and approval an engineered plan and specifications. The Community Development Director may approve the alterative parking design, in writing, upon finding that the proposal will provide for safe ingress, egress, and emergency service access.

Table 55.03-1. Parking Dimensions

	Figure 536-1 reference	0°	45°	60°	75°	90°
Stall width, parallel to aisle	A	9.0	12.7	10.4	9.3	9.0
Stall length of line	B	24.0	24.5	21.4	19.5	18.0
Stall depth to wall	C	9.0	17.0	18.5	19.0	18.0
Aisle width between stall lines	D	12.0	12.0	16.0	22.0	24.0
Stall depth, interlock	E	9.0	14.8	17.0	18.3	18.0
Module, wall to interlock	F	30.0	43.8	51.5	59.3	60.0
Module, interlocking	G	30.0	41.6	50.0	58.6	60.0
Module, interlock to curb face	H	30.0	41.8	49.4	56.9	58.0
Bumper overhang (typical)	I	0.0	1.5	1.8	2.0	2.0
Offset	J	—	6.3	2.7	0.5	0.0
Setback	K	24.0	11.0	8.3	5.0	0.0
Cross aisle, one-way	L	18.0	18.0	18.0	18.0	18.0
Cross aisle, two-way	—	24.0	24.0	24.0	24.0	24.0

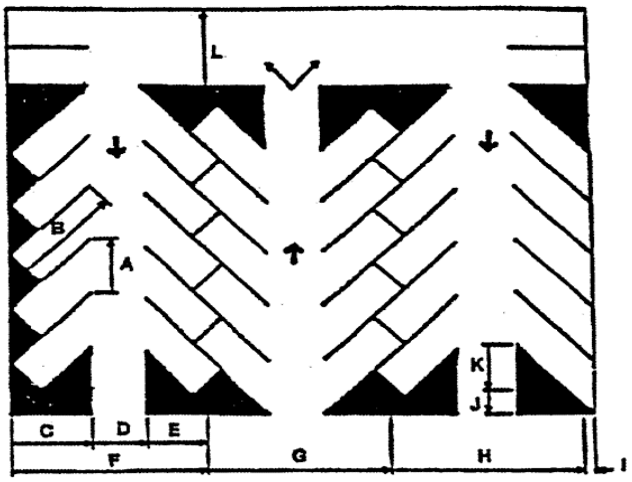
(b) 

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Figure 55.03-2. Parking Components

length is 16 feet. Bumper overhang for compact parking is not required.

(3) Compact parking spaces must be designated as being for the exclusive use of compact cars through the use of signs or pavement marking.

(4) The parking layout dimensions (in feet) for eight-foot compact parking stalls at various angles are shown in table 55.03-3 below and illustrated in figure 55.03-2 above.

Table 55.03-3. Compact Car Spaces

Parking components	Figure 55.03-1 reference	0°	45°	60°	75°	90°
Stall width, parallel to aisle	A	8.0	11.3	9.2	8.3	8.0
Stall length of line	B	22.0	24.0	20.5	18.2	16.0
Stall depth to wall	C	8.0	17.0	17.8	17.6	16.0
Aisle width between stall lines	D	12.0	12.0	16.0	22.0	24.0
Stall depth, interlock	E	8.0	14.2	14.3	13.7	16.0
Module, wall to interlock	F	28.0	43.2	48.1	53.3	56.0
Module, interlocking	G	28.0	43.2	48.1	53.3	56.0
Module, interlock to curb face	H	28.0	43.2	48.1	53.3	56.0
Bumper overhang (typical)	I	0.0	0.0	0.0	0.0	0.0
Offset	J	0.0	5.7	2.3	0.0	0.0
Setback	K	22.0	11.3	8.0	4.1	0.0
Cross aisle, one way	L	18.0	18.0	18.0	18.0	18.0
Cross aisle, two way	—	24.0	24.0	24.0	24.0	24.0

(c) *Parking for persons with disabilities.* Parking for persons with disabilities must meet North Carolina Accessibility Code.

(1) Accessible parking spaces must be provided as follows in table 55.03-4 below:

Table 55.03-4. Disabled Parking Requirements

Number of Required Parking Spaces	Number of Disabled Parking Spaces Required. (These spaces are included in the total number of required spaces.)
1—25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501—1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

(2) Parking spaces for the disabled must be designed and located as follows:

a. All users must have direct access to a curb ramp, curb cut or sidewalk when necessary to allow access to the building, structure, or use served.

b. Diagonal or perpendicular parking spaces must be a minimum of 12½ feet wide.

c. Parallel parking spaces must be located either at the beginning or end of a block or adjacent to an alley entrance. Curbs adjacent to the spaces must be of a height which will not interfere with the opening and closing of motor vehicle doors.

d. Parking spaces must be prominently outlined with paint different from ordinary striping and posted with a permanent fixed sign of a color and design approved by NCDOT.

(d) *Off-street parking design standards.* Off-street parking design standards are as follows:

(1) Except for single-family dwellings, every off-street parking area and driveway must have a hard surface consisting of asphalt or concrete pavement, or an alternative approved by the Community Development Director, to provide a durable and dustless surface. In making a determination as to the suitability of a proposed alternative, the Community Development Director must find the improvement provides:

a. A safe and permanent surface, suitable for the quantity and quality of traffic expected to use it;

b. A surface which will accept permanent delineation of parking spaces, aisles, accessways, and maneuvering areas; and

c. A surface that will not contribute to subsidence, erosion, or sedimentation, either on site or off site.

(2) All off-street parking lots must be graded and drained to dispose of all surface water accumulated within the area and not channeled to adjoining property.

(3) Lighting intensities should be controlled to ensure that light and glare are not directed at adjacent properties, neighboring areas, and motorists.

(4) Sales, dead storage, repair, dismantling and service of motor vehicles is not permitted on off-street parking spaces.

(5) Off-street parking spaces, including all areas for maneuvering, must be located solely on private property and not on public property or public rights-of-way. In addition, off-street parking is allowed:

a. Within the front setback, if one or more of the following factors are present, including but not limited to: severe topography, location of septic tank/repair areas, wells, other utilities, corner lot, irregular shaped lot, or to achieve inner-connectivity; or

b. If located in the rear of the building, parking may be located within the required setback; or

c. If located on the side of the building, parking may be located within the required setback.

(6) All off-street parking areas must be designed to provide safe and convenient circulation, in accordance with commonly accepted traffic-engineering practices.

Sec. 55.04. - Loading standards.

(a) *Required loading space.*

(1) Every use requiring the receipt or distribution by vehicles, of materials and merchandise, must have one or more loading berths or other space for standing, loading and unloading on the same or adjoining premise.

(2) Loading space must be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served.

(3) Required loading space must be available for the loading and unloading of vehicles and cannot be used for the storage of vehicles or materials, off-street parking requirements, or conducting the principal use.

(b) *Loading space standards.* All off-street loading spaces must meet the following standards:

(1) Off-street loading spaces must be located and arranged so that a semi tractor-trailer truck (wheelbase 50 class) or a local delivery vehicle, as appropriate, must be able to gain access to and use such spaces;

(2) Loading space must meet the minimum street and interior setbacks established for structures;

(3) All loading space and maneuvering space must be surfaced with a dustless, all-weather material and maintained in a safe, sanitary, and neat condition;

(4) No loading space may be located so that a vehicle using the space intrudes on or hinders the use of the public right-of-way or adjacent properties; and

(5) Each required off-street loading space must have a minimum width of 12 feet and a minimum vertical clearance of 16 feet above the finished grade of the space. The length must be a minimum of 20 feet for local delivery and 60 feet for semi tractor-trailers.

Sec. 55.05. - 55.08. - Reserved.

DIVISION 6. - SIGN REGULATIONS

Purpose: This division regulates the number, size, and location of signs in all zoning districts. It is designed to enhance the information displayed to the public; aid in orienting within the county; identify establishments, uses, and events; spur economic activity; stabilize and protect property values; maintain the visual attractiveness of the county; and promote the safety, health and general welfare of county citizens and the public.

Sec. 56.01. - General provisions.

(a) *Applicability.* No sign may be displayed, maintained, or operated except in accordance with this division and any other applicable laws and regulations.

(b) *Permit required.* Except for signs exempted under section 56.02 from the requirement for a permit, prior to the display of any sign, a zoning authorization permit must be obtained for the sign in accordance with section 56.07 of this division.

(c) *Substitution of non-commercial copy.* Notwithstanding any provision in this division to the contrary, non-commercial copy may be substituted in place of commercial copy on any sign that is otherwise permitted under this division.

Sec. 56.02. - Signs not requiring a permit.

To the extent that they comply with the applicable requirements of this division and with all other applicable laws and regulations, the following signs may be displayed without obtaining a zoning authorization permit:

(1) A single on-site sign less than two square feet in area that has no commercial copy and that bears only the following for the property on which it is located: street names and/or numbers, post office box numbers, and/or the names of occupants of the premises.

(2) Signs posted by authorized governmental entities on public property or within a public right-of-way.

(3) Signs that have copy that only: (i) provides information to assist with direction or safety with respect to the premises on which they are located, such as signs that state "entrance," "exit," "one way," "telephone," "parking," "no parking," and similar instructions, or (ii) provides information pertinent to the immediate safety or legal responsibilities of passersby or the public, such as signs warning of high voltage and "no trespassing" signs. A sign permitted under this section 66.02(3) shall not exceed four square feet in area and shall not be placed in any sight triangle. If such a sign directs to an entrance or exit, it shall be located no farther than 15 feet from any entrance or exit to which it refers.

(4) On-site signs located on a property owned or operated by a governmental entity or a nonprofit.

(5) Street light banners displayed in conjunction with decorative light fixtures.

(6) The following temporary signs:

(a) Signs on property for sale or lease.

(1) Temporary signs are permitted on properties that are being marketed for sale or lease. One such sign is allowed along each street or road on which the property fronts. Such a sign must be located outside of any street or road right-of-way. Such a sign must be removed immediately once the property on which it is located is no longer being marketed for sale or lease.

(2) For a property less than one acre in area, each such sign cannot exceed six square feet in area. For a larger property, each such sign may be up to 20 square feet in area.

(3) In addition to the on-premises signs authorized above, when a property is being marketed for sale or lease, the property's owner may erect no more than three off-premises signs within one mile of the property that is for sale or lease. One or more such signs may be erected for no longer than 72 hours at any one time and no more than once every month.

(b) Construction signs. For a property where construction or development is occurring, one sign is permitted along each street or road that the property fronts. Each such sign cannot exceed 32 square feet in area and must be located outside of any street or road right-of-way. Each such sign must be removed within ten days after the earliest of: (i) the issuance of a certificate of occupancy for the project, (ii) the expiration or revocation of any of the permit(s) required for the construction or development, or (iii) the cessation of the construction or development.

(c) A single temporary sign not exceeding 32 square feet in area may be displayed on a property with a business or other establishment to coincide with a temporary event happening on the property. Each such sign shall not exceed 32 square feet in area. Such signs may be displayed no earlier than 30 days before the temporary event begins and no later than 14 days after the event concludes. A particular property may display one or more such temporary signs, regardless of whether those signs coincide with the same event, for no more than 60 total days during any calendar year.

(d) Temporary signs may be displayed within any public street right of way or road right of way preceding any election in which any residents of the county can vote. Each such sign: (i) cannot exceed six square feet in area or 42 inches in height, (ii) must be at least three feet from the edge of

the street or road pavement, (iii) may be displayed no earlier than 30 days before the first date on which any county residents can vote, whether in the election itself or in any primary leading up to the election (iv) may be displayed no later than 14 days after the election ends, which shall not be deemed to have occurred until any necessary runoff elections have ended, (v) may not obscure motorist or pedestrian visibility at any intersection nor impede vehicular or pedestrian traffic, and (vi) may not obscure any other sign. However, any signs qualifying under G.S. § 136-32(b) shall be governed by G.S. § 136-32 rather than by this subsection.

Sec. 56.03. - Prohibited signs and sign locations.

The following are not permitted anywhere within the county:

(1) Portable signs, roof signs, banners, balloons, or other air- or helium-filled signs and pennants made of lightweight fabric, plastic or similar materials, whether or not containing any copy, except that such signs may be used as signs for a temporary event held by a nonprofit in accordance with section 56.02(6)(d).
(2) Signs that contain pulsating, rotating or flashing lights.
(3) Off-premises signs except as specifically permitted in this division.
(4) Pavement markings for purposes other than traffic control.
(5) Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges or overpasses, rocks, other signs, benches, or refuse containers.
(6) Signs placed within any sight triangle, except for traffic control signs displayed or approved by a governmental body with authority to do so.
(7) Except where specifically allowed by this division and except for signs placed by or on behalf of a governmental body with authority to do so, signs on public property or in a public right of way.
(8) Signs that contain language or pictures that are obscene as defined in G.S. § 14-190.1.
(9) Signs that imitate traffic control devices or that might reasonably be confused for traffic control devices.
(10) Signs not maintained in accordance with section 56.07 of this division.
(11) Signs on vehicles that are parked so that they are visible to the public where the principal use of the vehicles is not for transportation.

Sec. 56.04. - Freestanding signs.

For the purpose of determining the number of freestanding signs on a property, a sign is a single display surface or display device containing elements organized, related, and composed to form a unit. A sign with back-to-back or angled message surface is considered to be one sign.

Sec. 56.05. - Surface area computations.

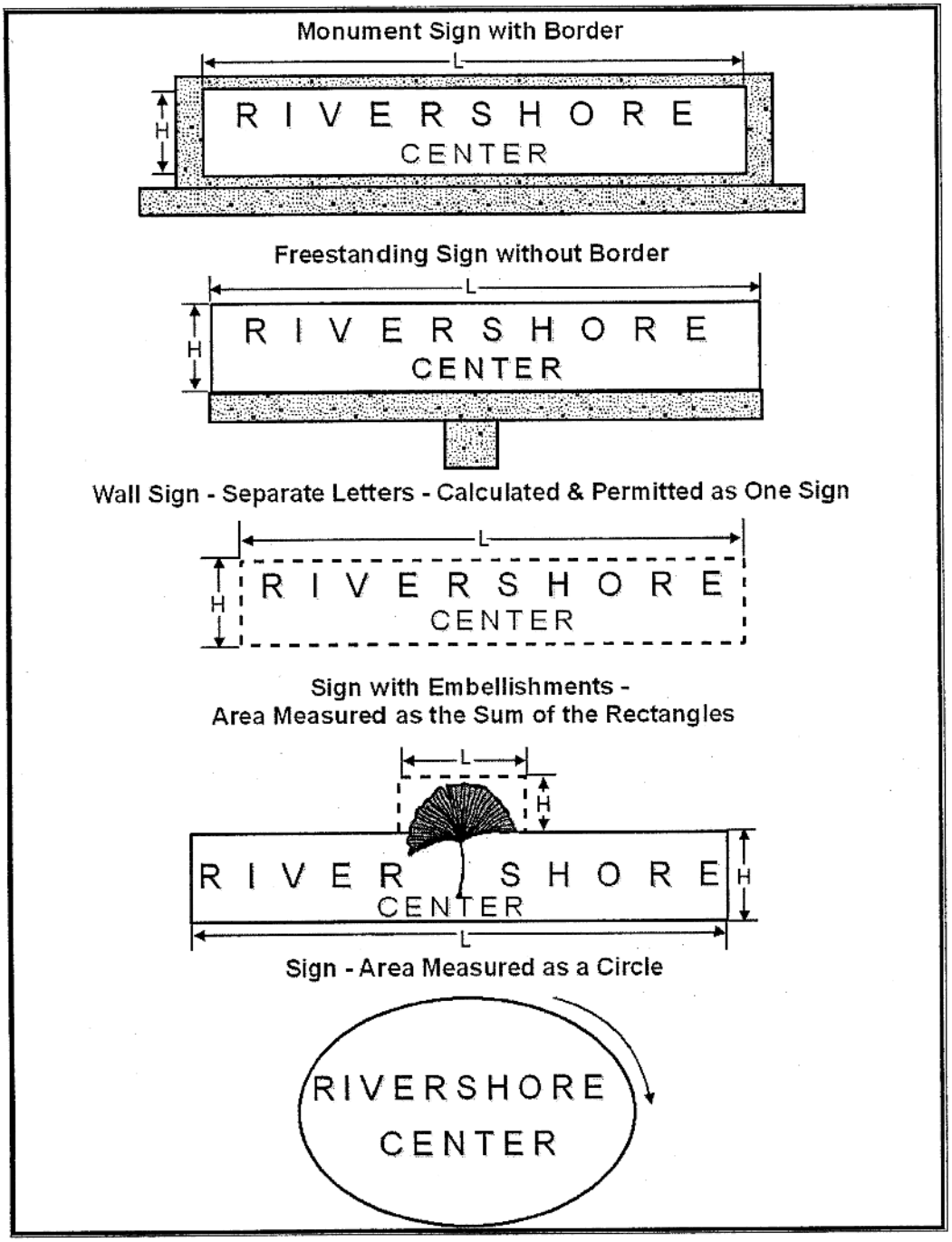
(a) The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the display, but not including structural framing, display of identification licensing officially required by any government body, area dedicated to public service information, such as time and temperature, or structural elements outside the sign surface and bearing no advertising matter.

(1) For signs mounted back to back, the surface area of one side is calculated. The back surface can be used for an identical or additional message.
(2) For cylindrical signs, signs in the shape of cubes, "V-shape," or other signs which are substantially three-dimensional, the entire display surface or surfaces is included in computations of area.
(3) For signs with rotating panels or light emitting diodes (LED) technology which have changeable copy, the display surface area will be computed as if the sign had a single message area.
(4) For purposes of monument type signs, the surface area of the base will not be computed as part of the surface area of the sign.
(5) The area devoted for signage on the face of a canopy, or awning sign counts toward the percentage of wall signage allowed, with the exception of canopies regulated in section 567.

(b) Any blank surface areas of the sign that could be utilized as display area will be included in the surface area computation.

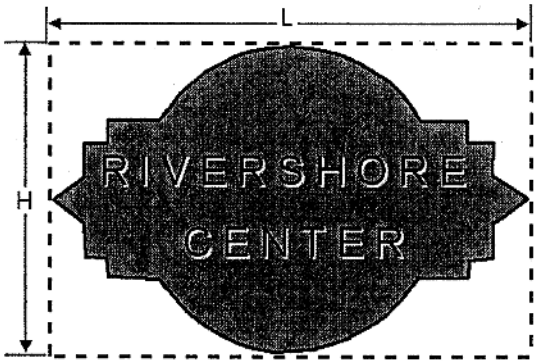
(c) Embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area must be computed separately as part of the total surface area of the sign.

(d) The following diagrams in figure 56.05-1 indicate how the area of a sign is to be calculated.

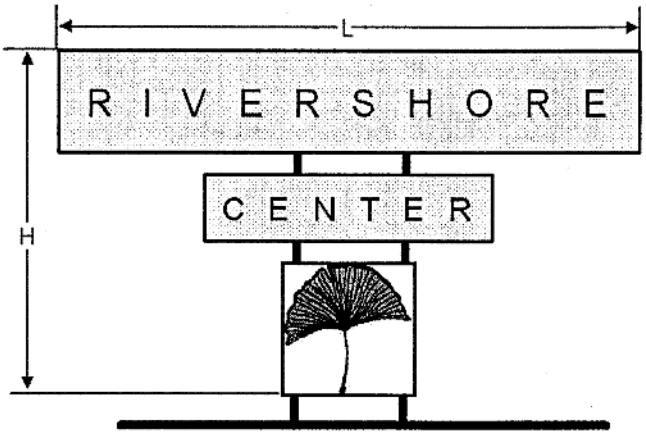


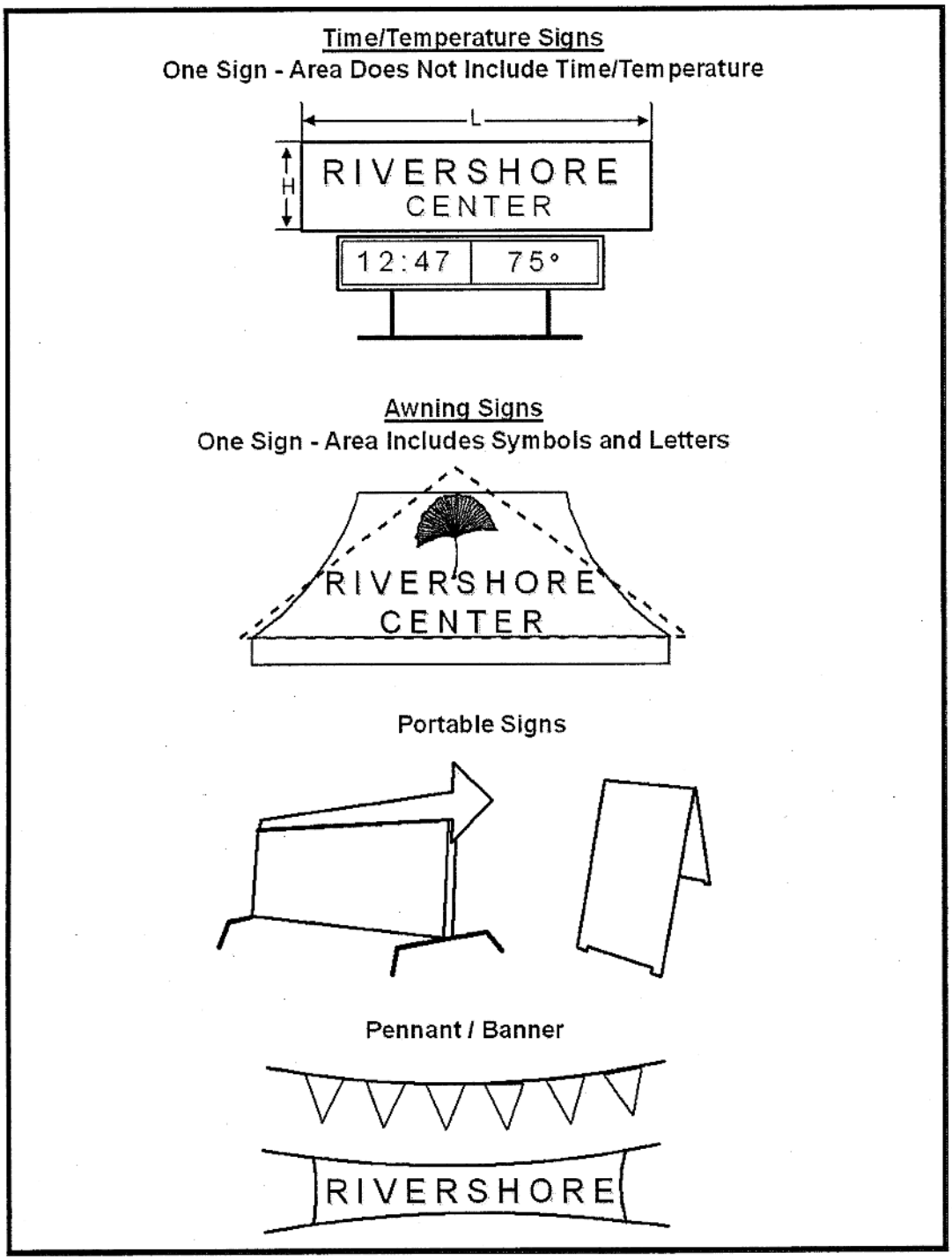
One Sign - Area Measured as a Triangle

One Sign - Area Measured as a Rectangle



One Sign - Units All Related/Not Random Display





Sec. 56.06. - Direct illumination.

No source of illumination on a sign, such as floodlights, spotlights, or unshielded bulbs, may shine directly into any public right-of-way or any adjacent residential property. LED-lit signs must not be of an intensity that glares or creates a safety hazard to travelers along any public right-of-way.

Sec. 56.07. - Permits; standards generally; maintenance.

The following applies to signs regulated by this division:

(1) *Zoning authorization permit required.* Before any sign is displayed or structurally altered, an application, along with a Detailed Site Plan, diagrams or other pertinent information must be

submitted to obtain a zoning authorization permit. This requirement applies to all signs except for those specifically exempted in subsection 56.02. Once a permit is granted, if work for the permitted sign is not completed within six months from the date of the permit's issuance, the permit automatically becomes null and void.

(2) *Construction standards.* All signs must be constructed and installed in accordance with the applicable provisions of this division, of the state building code, and of any other applicable laws, county codes, or other regulations.

(3) *Electrical standards.* All illuminated signs must be energized and illuminated in accordance with the applicable provisions of this division, the state building code, and any other applicable laws, county codes, or other regulations.

(4) *Maintenance.* All signs and sign structures must be maintained in good structural and aesthetic condition. They shall be kept safe and in good repair, free of deterioration or missing parts (examples of which would include, not for purposes of limitation, chipped paint, broken plastic, missing letters, disfigured surfaces, and incomplete illumination), and at all times they shall comply with all applicable provisions of this division, the state building code, and any other applicable laws, county codes, or other regulations.

(5) *Removal of copy.* If all or part of a sign's copy is removed, the person owning or having control over the sign shall, within 60 days of the removal of the copy, either replace the copy or remove the remaining components of the sign. If the sign is removed, the zoning permit for the sign will be deemed to have become null and void.

Sec. 56.08. - Nonconforming signs.

(a) An on-premises sign not in conformity with this article at the time of adoption may remain in place as long as it is not enlarged or extended and is kept in good repair.

(b) The cost of all improvements made to a nonconforming sign, in aggregate may not exceed 50 percent of the value of the sign at the time it became nonconforming. A certified appraisal stating the value of the sign when it became nonconforming, along with the total cost of all improvements made to the sign since that time and the estimated cost of the proposed improvements, must be submitted with any application for a zoning authorization permit to make proposed improvements to such a nonconforming sign. Costs to convert the display of a nonconforming off-premises sign to an LED display are not subject to this section, but such a conversion must comply with the following: Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts. LED and other similar technologies are allowed in residential districts only for the following uses: schools, places of worship, public use facilities, community recreation and other nonprofits. In all situations, this technology can be utilized only if the following requirements are met:

(1) Pulsating or flashing sign structures or messages are prohibited.

(2) LED signs must hold a static message a minimum of eight seconds.

Sec. 56.09. - Violations.

Any person violating any section of this division is subject to all applicable enforcement, appeal, variance provisions of this chapter.

Sec. 56.10. - Penalty.

Any person violating any section of this division for which no other penalty is set forth shall be subject to the penalty contained within section 37.

Sec. 56.11. - On-premises freestanding signs.

On-premises freestanding signs are allowed as follows:

(1) No more than one freestanding on-premises sign is allowed per lot, subject to the exceptions provided elsewhere in this section.

(2) A single consolidated sign, of unified design and construction, is required when more than one use is located on a single lot.

(3) All on-premises freestanding signs must observe the maximum permitted sign area requirements of table 56.11-1, except for signs on properties with home occupations, which are regulated in subsection (7) below.

(4) For a lot that fronts on multiple streets or roads, one on-premises sign is permitted along each street or road that the lot fronts, provided that each sign is separated from any other by at least 150 feet and each sign is located a minimum of 100 feet from any residential district.

(5) All parts of the sign and sign structure must be located outside of all street and road rights-of-way. The applicant is responsible for identifying the boundaries of all such rights-of-way and for providing that information in the sign permit application.

(6) Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts, with the exception of the village district. LED and other similar technologies are allowed in residential districts only for the following uses: schools, places of worship, public use facilities, community recreation and other nonprofits. In all situations, this technology can be utilized only if the following requirements are met:

a. Pulsating or flashing sign structures or messages are prohibited.

b. LED signs must hold a static message a minimum of eight seconds.

(7) Unless specifically regulated under article VI, approved home occupations, cottage businesses, and supplemental or special uses may have one nonilluminated sign with a maximum area of four square feet and a maximum height of four feet, including the height of any pedestal attached to the sign.

(8) Replacement of nonconforming on-premises signs must meet the sign requirements as shown in table 56.11-1.

(9) Additional multiuse sign. One additional multiuse on-premises sign, with a maximum area of 12 square feet and a maximum height of six feet, is permitted for each individual building within a planned unit development.

Table 56.11-1. On-Premises Single Development Sign Regulations

Sign Requirements—Based on Size and Speed of Adjoining Street				
Lanes	Maximum Speed Permitted	Surface Area Maximum (in square feet)	Height Maximum (in feet—including pedestal)	Illuminated Allowed
2	15—25	10	5	Yes
2	30—40	20	6	Yes
2	45—55	50	16	Yes
4	15—25	15	6	Yes
4	30—40	35	11	Yes
4	45—55	80	18	Yes
6	15—25	20	14	Yes
6	30—40	40	16	Yes
6	45—55	100	20	Yes

Sec. 56.12. - On-premises wall signs.

(a) Wall signage is permitted on each wall of a nonresidential building and must not extend above its lower roofline.

(b) Total wall signage for the front building wall is limited to two square feet of area per linear foot of the building wall; not to exceed 300 square feet. Side and rear wall signage is limited to one square foot of area per linear foot of the building wall; not to exceed 150 square feet.

(c) Light-emitting diodes (LED), tri-vision, electronic messages and other similar technologies are allowed in all nonresidential districts, with the exception of the village district. This technology can be utilized subject to the following:

(1) Pulsating or flashing sign structures or messages are prohibited.

(2) LED signs must hold a static message a minimum of eight seconds.

(d) Approved home occupations, cottage businesses or special uses may have one non-illuminated wall sign in lieu of an on-premises sign meeting the size requirements.

Sec. 56.13. - Off-premises signs—billboards.

(a) Off-premises signs are limited to one per lot. For signs mounted back-to-back or V-shaped, the surface area of one side is calculated. Double-stacked sign units are prohibited.

(b) The maximum permitted area shall be as follows: 550 sq. ft. on highway with 4 lanes or more and 350 sq. ft. on 3 or 2 lane highways.

(c) The maximum sign height for signs fronting along limited-access highways is 50 feet or 50 feet as measured from the road surface adjacent to the sign, whichever is higher. For all other roads, the maximum sign height is 35 feet or 35 feet as measured from the road surface adjacent to the sign, whichever is higher.

(d) Off-premises signs must meet the setback requirements of the district within which they are located with the exception of the front setback. All parts of the sign and sign structure must be located out of the right-of-way.

(e) Off-premises signs must be separated from other structures on the same lot by a minimum of 50 feet.

(f) Off-premises signs are permitted in highway commercial (HC) and industrial (LI and GI) districts only.

(g) Off-premises signs must be located a minimum of 400 feet from any residentially zoned property, park, school or hospital. This distance shall be measured from the nearest point of the sign to the nearest point of the property line that is residentially zoned or has one of the uses identified above. The right-of-way shall be included as part of the 400-foot requirement.

(h) The minimum required distance between off-premises signs is 1,000 feet between signs on the same side of the right-of-way and 500 feet for signs on opposite sides of the right-of-way. The distance between off-premises signs in all other circumstances must be 1,000 feet measured radially from the sign.

(i) As part of the application for a zoning permit for an off-premises sign, a notarized letter from the property owner where the sign will be located must be submitted stating that a lease agreement has been executed with the applicant. Also, a letter of intent from a prospective advertiser or advertising agency for the initial use of the sign board shall accompany any application for a zoning authorization permit.

(j) The poster material of the off-premises sign shall be made of all-weather, fade-resistant material such as vinyl or similar synthetic material. For short-term advertisers (60 days or less), other material may be used subject to it being properly maintained to avoid separation and flagging from the billboard.

(k) Lighting, if installed, shall be placed at the top of the sign and be directed such that the illumination is contained to the sign area of the off-premises sign. Flashing or strobe lights are prohibited.

(l) No vegetation on public property, including the public right-of-way, shall be cut for the purpose of increasing or permitting visibility to the off-premises sign unless preapproved by the governmental authority having jurisdiction over the vegetation, such as NCDOT.

(m) The back of the sign and the structural pole shall be painted in an earth-tone color, which includes shades of gray and brown.

(n) All new sign structures must be supported by a steel monopole.

(o) Off-premises roof signs are considered billboards and are subject to these regulations.

(p) Off-premises wall signs are considered billboards and are subject to these regulations.

(q) Tri-vision is allowed on off-premises signs.

(r) An off-premises sign may be upgraded or constructed, where permitted, utilizing LED technology. In addition, an off-premises sign with LED technology must be separated from another off-premises sign with LED technology by 1,200 feet. A LED off-premises sign must hold a static message a minimum of eight seconds.

Sec. 56.14. - Off-premises directional signs.

(a) Up to three off-premises directional signs are permitted under the following standards:

(1) The principal use to which the sign directs is not located on a collector or arterial street and:

a. The use is located in an office-institutional, commercial, or industrial district;

b. The use is an approved special use; or

c. The use is a legal nonconforming use.

(2) A notarized letter, stating that permission has been obtained from the owner of the land where the sign is to be placed, shall accompany any application for a zoning authorization permit.

(3) The sign cannot exceed 16 square feet for a single use or 48 square feet for more than one use.

(4) The sign must be of unified design when more than one use utilizes a single sign.

(5) The height of an off-premises directional sign cannot exceed six feet.

(6) Such signs are not allowed for properties with home occupations.

(b) Nonprofits may have up to two off-premises directional signs, regardless of location, unless extenuating circumstances exist to allow a total of three signs.

(c) All parts of the sign and sign structure must be located outside all rights-of-way. The applicant is responsible for obtaining right-of-way information for any sign permit.

(d) Off-premises directional signs cannot be illuminated.

Sec. 56.15. - Development entrance signs.

The following apply to signs at a residential development entrance or within a median for a development entrance:

(1) The applicant or assigned HOA must maintain the sign and the area around the sign. The signs shall be removed, if not properly maintained, at no expense to the public. For purposes of this subsection, "properly maintained" means maintained in a manner that does not cause the sign to become a public nuisance or endanger public safety. The "area around the sign" means any area that includes supports, landscaping, or other features relating to the sign.

(2) A maximum of two signs are permitted at each entrance.

(3) If the sign is to be located within the right-of-way of any state system road, the applicant is responsible for obtaining the approval of the NCDOT.

(4) The sign cannot exceed 32 square feet in area, as calculated under section 56.05.

(5) Illumination of the sign is permitted.

Sec. 56.16. - On-premises canopy signs for fuel-pump islands.

For any use where fuel-pump islands are permitted, in addition to one freestanding sign, one static fascia canopy sign is permitted on all sides of a fuel-pump island canopy that are visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25 percent of the canopy fascia surface, up to a maximum height of two feet.

Sec. 56.17. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Banner. Any object made of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges.

Billboard - A permanently affixed off-premise sign, other than an off-premise directional sign.

LED sign. A sign with light-emitting diodes technology designed to project a static display at eight-second intervals with the copy message transition taking no more than two seconds controlled by high speed modem and computer.

Limited access user sign. A sign displayed by a use located within 500 feet of an entrance to a limited-access highway if the sign is designed to be seen from the limited-access highway, but where the entrance to the use does not front along the limited access highway.

Monument sign. A sign that is permanently affixed to a base on the ground, without any airspace between the base and the bottom edge of the sign.

Nonprofit. An entity governed by the laws of G.S. chapter 55A or an entity that is exempt from taxation under section 501(a) of the Internal Revenue Code.

Off-premises (or off-site) directional sign. An off-premises sign, the copy of which only identifies a property or use that is not located on a collector or arterial street and provides direction to that property or use.

Off-premises (or off-site) sign. A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

On-premises (or on-site) sign. A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Pole sign. A sign that is permanently affixed to the ground through use of a pedestal(s), with airspace between the ground and the bottom edge of the sign.

Portable sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported.

Sight triangle. A triangular-shaped portion of land established at street intersections and driveways in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as set forth in applicable legal requirements.

Sign. Any display surface or display device containing or intending to contain elements organized, related, and composed to form a unit designed to inform or attract attention.

Tri-vision. Rotating multi-panel technology, typically used on off-premises signs.

Wall sign - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

DIVISION 7. – DESIGN STANDARDS FOR COMMERICAL BUILDINGS

Sec. 57.01. - Intent

a. This section sets out the design requirements for new site development and redevelopment, reconstruction, exterior remodeling, and/or exterior alteration of existing sites. These requirements do not require property owners to make changes to their properties. The requirements do not apply to interior alterations or routine maintenance repairs that do not involve a change in the exterior design, material, or appearance. The site design and landscaping requirements are intended to expedite rezoning and development approval by including predictable uniform requirements that apply equitably to all non-residential development. The requirements shall apply in all non-residential zoning districts and shall be administratively approved by the Community Development Director.
b. The applicant must demonstrate how his/her proposal conforms to the requirements, or the applicant may propose an alternative design that better achieves the intent of the requirements. It is recommended that applicants attend a pre-application meeting with the Community Development staff and, for large projects, meet with affected neighborhoods to identify issues of design context and neighborhood interest.
c. Alternative designs and/or exceptions to the Site Design and Landscaping requirements shall be administratively approved by the Community Development Director on a case-by-case basis when the Department finds that the alternative design and/or exception(s) may be granted without violating the intent of the UDO.
d. For exceptions, the applicant must demonstrate that a waiver of any requirement is due to conditions peculiar to the site; that potential impact on surrounding properties is minimal; that the exemption will not be contrary to public health, safety, and welfare; and that the spirit, purpose and intent of this chapter shall be served. Alternative designs and/or exceptions shall be granted at the time of site plan review for the building permit and shall not be granted during a pre-application meeting.
e. An appeal of a waiver decision by the Zoning Administrator may be made to the Board of Adjustment.
f. Nonconformances created by this Article shall be governed by the regulations in Article XII, Nonconformances.

Sec. 57.02. - Site Development

Streets. The developer shall provide access roads to connect a proposed development to adjacent neighborhoods and/or other development.

Site Layout. Site layout should be compact to enable future intensification of development and changes in land use over time. If the site contains more than one use, the site layout shall cluster buildings on the site to promote linked trips. Buildings shall be attached or close together such that a pedestrian need not walk across more than 64 linear feet of parking and driveway, or one double row of parking (not including sidewalks, pathways, landscaping, plazas, or other pedestrian facilities) whichever is less, between building entrances.

Amenities for Public Use. A development with more than 10,000 square feet of floor space shall provide at least 10 square feet of pedestrian accessible space for each 10,000 square feet of floor space. Typical amenities could include extra wide sidewalks, street trees, landscaping, transit stop, plaza, sitting spaces, weather protection (awnings or canopies), pedestrian scale lighting, Taxi/bus stop seating, etc. Public use amenities, such as waiting areas, trash cans, newspaper vending machines, seating, and/or public art, should be provided where appropriate.

Sec. 57.03. - Buildings

a. Exterior walls visible from a parking lot or public road shall be architecturally designed to complement the front of the building. The appearance of all building faces and roof coverings of

non-residential development shall be similar to the front facade of the building when adjacent to residential development.

b. The buildings of all large-scale retail businesses must be decoratively finished on all sides. This may include, but is not limited to, stucco finishes, etching or grooving, a different type or color of bricks, and accent colors.
c. Building(s) shall have entries to the building or establishment which are clearly defined or have a focal point featuring a mix of one or more of the following design elements: overhangs, recesses, canopies, porticos, projections, raised cornices or parapets, peaked roof forms, arches, awnings, pilasters, columns, arcades, colonnades, overhanging eaves, fenestration, and other such architectural features. Building entry elements must be roughly proportional in scale with the size of the building.
d. Building façades shall incorporate projections, recesses and/or other architectural features on building façades to break up large expanses of walls. No uninterrupted length of a building façade shall exceed 100 horizontal feet. Facades may include repeated patterns, but not less than three times per 100 feet of building fascia.
e. Foundations shall be architecturally masked with same exterior siding as on building, or with masonry building material with a decorative finish. Masking shall be extended to within six (6) inches of grade.
f. Flat roof structures should be capped by an articulated parapet related to the building façade and its materials. Sloped roof structures are encouraged to maintain a pitch between 6:12 minimum and 12:12 maximum slope on all primary roof areas. Roof overhangs shall be no greater than 24 inches.
g. Use of subdued, muted, or naturally occurring earth tone colors is encouraged. Complimentary colors, texture and material are encouraged to be used as accents and trims on buildings. Bright and highly reflective or extremely shiny finishes may be used on mo more than 25% of the exterior wall surfaces.
h. The building(s) of single large-scale retail use(s) facing streets and driveways are encouraged to incorporate recessed display windows, and multiple entry areas.
i. Buildings with vertical elements such as towers and chimneys should balance the horizontal composition.
j. All buildings within a planned development, shopping center, or large scale retail businesses should have sufficient compatible architecture or architectural elements to give the appearance of being an integral part of the center.

Exterior Materials. New and/or replacement exterior siding must consist, or give the appearance, of the following building materials and decorative style: Commercial and industrial development may have a stucco, masonry, wood or finished concrete appearance. Non-reflective glass is also permitted as a principal building material within commercial and industrial zoning districts. Any exterior siding affixed to give the appearance of a continuous horizontal or vertical pattern and may include ornamental features.

Sec. 57.04. - 57.10. - Reserved.

ARTICLE VI. – SUPPLEMENTAL REGULATIONS

This article establishes additional regulations for particular uses, which are either permitted with additional development standards or as a special use, within the zoning districts established in article IV. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of all adopted plans.

DIVISION 1. - GENERALLY

Sec. 61.01. - General provisions.

(a) *Applicability.* The provisions in this article are supplemental to the general provisions of the other articles of this UDO. Division 2 sets forth supplemental development standards for uses permitted by right. Division 3 details uses that require the approval of a special use permit granted by the Planning Board. All uses and structures must also comply with all other applicable provisions of this chapter.

(b) *Relationship to use table.* Uses listed as permitted, special use or having a reference to supplemental regulations in table 41.04 must satisfy these additional criteria before development will be approved.

(c) *Site plans.* A Detailed Site Plan, complying with any applicable standards in Article 3 and the supplemental use or special use standards listed in this article, must be submitted in sufficient detail to ensure conformance with UDO standards where applicable.

(d) *Application approval.* The Community Development Director has the authority to approve, approve with modifications, or deny applications for permitted uses included in Division 2. The Planning Board has the authority to approve, approve with modifications or deny applications for special use permits included in Division 3.

DIVISION 2. - SUPPLEMENTAL REGULATIONS FOR INDIVIDUAL USES

The following sections contain supplemental standards relevant to individual uses and are in addition to the applicable regulations in article V.

Sec. 62.01. - Accessory dwelling unit

Permanent Accessory Dwelling

(a) The following are allowed to be used as an accessory dwelling unit/guesthouse:
  (1) A site-built structure or modular home meeting all applicable sections of the NC Residential Building Code; or
  (2) A modular home meeting all applicable sections of NC Residential Building Code;

(b) The use must comply with all requirements of Environmental Health Services, for on-site wastewater disposal and well regulations or be served by public water and sewer utilities.

(c) A detached accessory dwelling unit shall be permitted as an accessory to any detached primary single-family dwelling unit. The primary structure must be a site-built or modular residence. The accessory dwelling unit must be clearly subordinate to the principal structure.

(d) No more than one accessory dwelling unit shall be permitted on a single lot in conjunction with the principal dwelling unit.

(e) The accessory dwelling unit and the principal dwelling must be owned by the same person. The owner must reside in one of the dwellings. .

(f) Accessory dwelling units must adhere to the maximum permitted height requirement for the zoning district and adhere to the required setbacks for the district.

(g) Unless the accessory dwelling unit is accessed from a different road or street than the principal structure, the accessory dwelling unit must share a driveway with the principal structure.

(h) The accessory dwelling unit must not exceed 650 square feet or 50 percent of the gross heated floor area of the principal dwelling, whichever is greater.

(i) The accessory dwelling unit may be combined with a garage, workshop, etc.

Sec. 62.02. - Accessory structure.

An accessory structure cannot be permitted unless a principal structure exists on the same zoning lot or a building permit for a principal structure has been issued at the same time the accessory structure permit is issued, with the exception of the Stand-Alone Residential Storage Unit in the RA District.

(a) *Residential single-use accessory structure.*

(1) Accessory structures must not exceed the maximum permitted height for the zoning district in which the property is located.

(2) Accessory structures must meet the required setbacks for the district, with the exception to corner and multi-frontage lots. Accessory structures may be allowed no closer than 20 feet from a side street right-of-way.

(3) Accessory structure must be separated from the principal structure by at least five feet of open space.

(4) Manufactured homes or truck trailers, either with current tags or untagged, may not be used for accessory structures and cannot be converted for storage or other purposes.

(b) *Residential multiuse, multistory, or habitable space accessory structure.*

(1) Accessory structures must meet the requirements of subsections (a)(1), (2) and (3) above.

(2) Accessory structures must meet the required setbacks for a principal structure in the underlying zoning district.

(c) *Nonresidential accessory structure.*

(1) Must meet the requirements of subsections (a)(1), (2) and (3) above.

(2) Accessory structures must meet the required setbacks for a principal structure in the underlying zoning district.

Sec. 62.03. - Adult use.

(a) All windows, doors, and entries for all adult uses must be located, covered, screened, or otherwise treated so that any view of the interior of the establishment are not possible from any public or semipublic area, street, or way.

(b) No adult use shall be located within a 500-foot radius of another adult use. Distance shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

(c) No adult use shall be located within 500 feet of any adjacent residential property or zoned land or 500 feet of any church, park, playground, synagogue, convent, library, or areas where minors regularly travel or congregate.

(d) Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this chapter or the laws of the county or state.

Sec. 62.04. - Agritourism Activities

Properties that are bona fide (exempt) farms are not regulated by this permit.

Rockingham County's tourism industry is interconnected with agriculture. The purpose of allowing development of agritourism facilities and operations is to contribute to the preservation of the agricultural character of the county and to allow farming to remain a viable occupation by generating supplemental income from farm related activities on properties that do not have bona fide (exempt) farm status.

Examples of agritourism activities include, but are not limited to: Outdoor recreation (fishing, hunting, horseback riding, archery, hiking), wineries, guided farm tours, educational tours, corn mazes, harvest festivals or barn dances, agriculture food and craft shows, on-farm direct sales (U-pick operations or road side stands)

Lot size and use: 5 Acres

Parking: The number of parking spaces as listed in Division 5, Article V for type of use. Paving is not required: however, dust control measures may be required. Off-site parking is not permitted.

Access: Point of ingress and egress to property shall consist of a minimum twelve (12) foot wide travel way and shall be located in such a way to minimize traffic hazards, inconvenience, and congestion.

Site plans: (as may be required), shall show:

Dimensions of property
Location, use and ownership of all existing and proposed buildings
Location, use, and dimensions of all outdoor activity areas
Public and private roads accessing the property
Parking areas and number of parking spaces
Sanitary sewer facilities where applicable
Location and heights of all fences, hedges and natural buffers that would serve as buffers to abutting property
Location of all flood zones, watersheds, wetlands, and streams

Signs: Two identification signs not exceeding sixteen (16) square feet each are allowed within the bounds of the property. Illumination is not permitted. Signs may be ground signs and/or wall signs.

Other requirements:

1. Agritourism activities should be designed to minimize their visual impact on nearby properties used or zoned for agricultural and/or residential uses.
2. All agritourism structures, permanent parking, (non-farm) storage area, and other uses related to the agritourism facility/activity must have a thirty (30) foot setback from side and rear property lines with Type I landscaping buffer and a thirty-five (35) feet setback from the road right-of-way. The landscaping requirement may be waived by the Community Development Director or his designee if the activity is located at such a distance from the property line that the area or facility where the activity takes place cannot be seen from the property lines. Existing cropland that is not part of the agritourism activity may be factored into the buffer requirement.
3. There shall be a separation of at least 100 feet between residences on adjoining tracts and any building used for the agritourism operation.
4. Special events may be held without a Special Event Permit and are limited as follows:
    a. Only one type of special event may occur at any one time.
    b. Festivals are allowed up to 4 times per year for three consecutive days each.
    c. Horse shows are permitted up to 4 times per year.
    d. Other events (ex. weddings, retreats, reunions) are permitted up to four times per month for three consecutive days each.
5. Events other than those listed or those lasting longer than the period allowed shall require a Special Event Permit.
6. A maximum of 750 square feet of area for retail sales is allowed. Items sold must be directly associated with the agricultural use of the land.
7. If agricultural use of the property ends, any retail use must also cease if property is not rezoned to a zoning district that allows the retail use.
8. Stormwater drainage and sanitary sewerage shall be provided as approved by the Community Development Director and Environmental Health Services.
9. All lighting shall be directed inward and downward (e.g. shoe box fixtures) in such a manner so as not to produce glare onto adjacent property and so that the primary cone of illumination does not extend beyond the property lines. Exterior lighting shall be mounted no higher than thirty-five feet above the adjacent ground level.
10. All applicable permits are applied for and secured as required by other local, state, and/or federal agencies.

Off-premises Signs

Two (2) off-premises directional signs are allowed when business, attraction, or activity is not located on a US or NC numbered highway, subject to the following regulations:

1. Sign permit is required prior to erecting sign. Written permission of the property owner and copy of sign face is required prior to obtaining a permit.
2. Signs shall be setback at least 10 feet off the right-of-way.
3. There shall be a minimum of 1000 feet between each sign.
4. No sign may be larger than 16 square feet or greater than 6 feet in height.
5. Only non-illuminated freestanding ground signs are allowed.
6. Signs may be two-sided. The sign surface area shall be computed by including the total of all sides designed to communicate information that can be seen at any one time by a person from one vantage point.
7. Signs must be kept in good repair.
8. If business, attraction or activity ceases to operate, off-premises signs shall be removed within 30 days of cessation, by the sign owner or the owner of the property where the sign is located.

Sec. 62.05. - Animal facility—Kennel.

8 domesticated animals or less

Requirements:

1. The property shall be screened with a landscaped buffer with a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all sides of the kennel facility.
2. Two parking spaces shall be provided in addition to the standard parking required for a dwelling unit.
3. A site plan, drawn to scale, shall be submitted showing the following:
    a. location of the proposed facility including boundary and acreage;
    b. parking areas, roadways, entrances, and exits;
    c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 100 feet of the kennel area;
    d. existing and proposed landscape buffers;
    e. a floor plan of the facility must be provided

Animal Facility - Kennel (RA)

More than 8 domesticated animals

Acres: 2 acres are required for up to 16 animals.
For every incremental increase of 8 animals, the acreage requirement shall increase by 1 acre.

Setbacks: All areas of the kennel facility shall maintain a minimum setback of 50 feet from the front property line, 25 feet from the side and rear property lines unless abutting a side street in which a minimum side setback of 40 feet shall be maintained.

Access: A Kennel of more than 8 domesticated animals shall follow these access requirements:
1. Driveway access to the facility shall directly connect to a road that is maintained by the NCDOT;
2. A commercial driveway permit must be obtained from NCDOT and a copy shall be provided to the Rockingham County Planning Department.

Signs:
Permitted Number: 1 sign per entrance
Maximum area of sign: 25 sq. ft.
Permitted Illumination: None

Other Requirements:

1. The property shall be screened with a landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all sides of the kennel facility.
2. Parking shall be calculated at 1 space per each 400 square feet of gross floor area.
3. A site plan, drawn to scale, shall be submitted showing the following:
   a. location of the proposed facility including boundary and acreage;
   b. parking areas, roadways, entrances, and exits;
   c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 50 feet of the kennel area;
   d. existing and proposed landscape buffers;
   e. a floor plan of the facility must be provided

Sec. 62.06. - Animal facility—Public Stable.

(a) Front, rear, and side setbacks for the stable structure must be a minimum of 50 feet.
(b) Parking must be provided at a ratio of one parking space for every five stalls.
(c) The operator of the stable must be responsible for using good management practices to discourage undesirable odors and insects.
(d) One nonilluminated sign with a maximum area of 16 square feet is permitted.

Sec. 62.07. - Animal hospital and veterinary clinic.

(a) All activities of animal hospitals and veterinary clinics, with the exception of animal exercise yards, must be conducted within an enclosed building.
(b) Buildings housing animal hospitals or veterinary clinics must be located a minimum of 100 feet from any adjacent residential property.
(c) Exercise and confinement yards must be a minimum of 200 feet from any dwelling unit on any adjacent residential property.

Sec. 62.08. - Assembly/theater facility—Outdoor or drive-in.

(a) No part of any assembly area, projection screen, projection booth, or other building may be located closer than 300 feet from any adjacent residential property or closer than 50 feet from any lot line.
(b) The image on the projection screen may not be visible from any adjacent residential property.
(c) Audio amplification systems must be set in such a way to minimize impact to adjacent properties.
(d) Lighting must be directed away from adjacent properties and public rights-of-way.
(e) Queuing space within the zoning lot must be provided for patrons awaiting admission in an amount equal to 30 percent of the vehicular capacity of the assembly or theater facility.

Sec. 62.09. - Athletic Fields and Parks Reserved

Sec. 62.10. - 62.12 Reserved

Sec. 62.13. - Automatic teller machine (ATM), portable concession stands, ice machines—Freestanding.

(a) Freestanding facilities and associated queuing lanes must not interfere with traffic access areas.
(b) Freestanding facilities and associated queuing lanes must not occupy principal use required parking spaces.
(c) Facilities must be located outside required setbacks and with the exception of ATMs, must be located at the side or rear of the principal use.
(d) Low-growing landscaping or portable planters must surround three sides of the facility.
(e) The facility must be underskirted with a material designed for that purpose.
(f) Mechanical equipment must be screened from public view.
(g) Concession stands must meet all applicable state and local regulations.
(h) Only one wall sign is allowed, which has a maximum area of ten percent of the wall surface, up to a maximum total of 32 square feet in area.

Sec. 62.14. - Bed and breakfast home.

a. All required off-street parking must be located outside of required setbacks. Parking shall not be allowed in any front yard. Parking shall be provided at a minimum of one space per guest bedroom and one space for every two employees. A Bed & Breakfast Home shall be located on a state-maintained road.
b. Rooms shall not be equipped with cooking facilities. Breakfast shall be served on the premises only for guests and employees. No other meals shall be provided on the premises.
c. The operators must be full-time residents of the premises. All state and local fire, sanitation, food service provisions, and development and design standards shall be met and a zoning inspection completed prior to a zoning permit being issued to allow the Bed & Breakfast Home.
d. A Bed & Breakfast Home is considered a commercial activity and requires site plan approval. A site plan shall show the location of all structures and their use, parking, landscaping, and may include other related items as required by staff. One non-illuminated sign, not more than eight (8) square feet in area and not more than five (5) feet in height, is allowed. The use shall be located in a structure which was originally constructed as a dwelling. Accessory buildings and structures shall not be used for guest or living quarters.

Sec. 62.15. - Brewery, Distillery or Winery. (RA, RC, NC)

a. All buildings must meet the minimum principal setbacks for the district.
b. The parcel must be a minimum of ten acres.
c. The winery cannot be located in a major subdivision.
d. The winery building(s) is allowed as a principal structure.

Sec. 62.16. - Campground - Group or primitive, tent camping and recreational vehicle parks.

(a) Group-camp facilities are operated on a profit or nonprofit basis. Standards for group-camp facilities are as follows:
  (1) The minimum size for a group-camp facility is three (3) acres.
  (2) Each group camp must provide a minimum of one-fourth acre per each person camping.
  (3) All buildings and areas for organized recreational use must be set back a minimum distance of 100 feet from any exterior property line.

(b) Campgrounds or recreational-vehicle parks provide sites for tents and recreational vehicles. Standards for campgrounds or recreational-vehicle parks are as follows:
  (1) The minimum size for a campground or recreational vehicle park is five (5) acres.
  (2) All buildings, tent spaces, and vehicle spaces must be set back a minimum distance of 50 feet from any exterior property line.
  (3) A sanitary source of drinking water must be at least 200 feet, but no more than 400 feet, from toilet facilities. A bathhouse may not be more than 1,500 feet from any tent or vehicle space. This does not apply where public water and sewer connections are provided to vehicles having self-contained kitchens and bathroom facilities.
  (4) A minimum of 1,500 square feet of area per RV space must be provided.
  (5) A minimum 30-foot private right of way must be dedicated to accommodate access to all spaces.
  (6) Access roadways must enable two-lane traffic flow.
  (7) A minimum of two (2) state-maintained roadway ingress, egress and regress points are required. Any dead-end interior roadway must comply with current NCDOT and Emergency Services vehicle turnaround requirements.
  (8) Campgrounds and RV Parks are subject to the non-residential development standards detailed in Article V of the Unified Development Ordinance.

[Amended September 19, 2022]

Sec. 62.17. - Care facility - Day, Child and adult care center.

a. A paved semicircular driveway, 20 feet in width with a minimum interior radius of 20 feet is required.

b. A fenced outdoor play area for children must be placed in the rear or side yard measuring a minimum of 1,000 square feet.
c. Uses designed to accommodate more than 30 patrons must have:
    1. Frontage on a NC DOT state-maintained road.
    2. A minimum lot size of 40,000 square feet shall be required.
    3. An improved walkway connecting a child care facility to the street where buses may drop off school children.
    4. The design, intensity, and scale of the child and adult care center must be compatible with surrounding land uses and zoning.
    5. All state rules and requirements must be met.
    6. One nonilluminated sign with a maximum area of 16 square feet is permitted.

Sec. 62.18. - Care facility—Hospice/palliative care facility.

a. The facility must have frontage on a NC DOT state-maintained road.
b. There must be a minimum lot size of 40,000 square feet with a minimum road frontage of 50 feet.
c. Front, rear, and side setbacks shall be a minimum of 50 feet.
d. One nonilluminated sign with a maximum area of 16 square feet and a maximum height of four (4) feet from the ground.

Sec. 62.19. - Cemetery, Commercial/Public—Human beings and pet.

Human.

a. All requirements of state law regarding the interment of human dead must be met.
b. A minimum lot size of ~~five~~ two (2) acres shall be provided.
c. There must be adequate space within the site for the parking and maneuvering of funeral corteges.
d. Interments must be located at least 30 feet from any property line.
e. All structures must be set back a minimum of 25 feet from any property line and cannot be placed in any other required setbacks.
f. All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more restrictive.
g. One nonilluminated sign with a maximum area of 16 square feet is permitted.

Pet.

a. All applicable federal and state regulations governing animal cemeteries must be met.
b. A minimum lot size of 40,000 square feet shall be provided.
c. Interments must be at located least 30 feet from any property line.
d. All structures shall be set back a minimum of 25 feet from any property line and cannot be placed in any required setbacks.
e. All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more restrictive.
f. One nonilluminated sign with a maximum area of 16 square feet is permitted.

Sec. 62.20. - 62.23 Reserved

Sec. 62.24. - Commercial Feeder Operation

Standards

a. Minimum lot size shall be 20 acres.
b. All structures, buildings, or enclosed areas used for housing of poultry, cattle or other livestock, excepting exempt hog farms, shall be a minimum of 200 feet from all property lines and from all public streets
c. No structures, buildings or enclosed areas housing poultry, hogs, cattle or other livestock shall be less than 150 feet from any residence on the property.

d. A site plan shall be submitted showing proposed and existing structures within the property, property boundaries, zoning district boundaries as well as existing structures, lakes, ponds and water courses.
e. The applicant shall submit a plan indicating the procedures and process for litter and dead bird or animal disposal. Such a plan may be used by the county to monitor compliance with the requirements of the special use permit, if approved.
f. Necessary Environmental Health Department permits must be obtained prior to operation. Any violation of a Health Department regulation shall be considered a violation of this Ordinance.

Sec. 62.25. - Conference/retreat/event center.

Application Requirements:

a. A complete description of the facility including but not limited to:
   - types of events, days and hours of operation;
   - site plan showing layout of all buildings, parking areas, landscaping, buffers, etc.
   - projected number of users per weekday and weekend days, with the maximum number expected at any one event
   - total number of seats
   - types of accessory uses, if any, planned on the site (includes any accessory structures---ex. gazebo, barn, playground)
   - total number of employees, both full-time and part-time
   - any and all other relevant information that will help describe the facility
   - building elevations may be required
b. Proposed roadway improvements serving the site should also be detailed.
c. Other information may be required as determined by location and proposed use.
d. Site Size. The site shall contain a minimum of two acres.
a. Access. The parcel must have frontage on a publicly maintained road. There shall be no more than two points of access to a public road. This requirement shall not preclude an additional access for emergency vehicles only. Proposed access points must be approved by NCDOT.
b. Structure. A residential structure that is used for a reception facility shall not be altered in any way that changes its general residential appearance. Building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located. New construction shall meet non-residential design standards. No overnight accommodations are allowed.
c. Setbacks. All structures and outdoor viewing and seating areas shall be set back at least one hundred 50 feet from any street and otherwise maintain required setbacks for the district.
d. Lighting. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises and may be of sufficient intensity to discourage vandalism.
e. Noise Control. Depending on the plans presented, the special use permit may also specify the noise reduction measures, including but not limited to muting, special landscape treatment and berms.
f. Buffer. If a facility abuts residential property, landscaping and buffers shall meet non-residential design standards.
g. Parking. The facility must provide two parking spaces for the owner or operator; one space for every 2 employees on the shift of greatest employment, including service providers (i. e. caterers, band); and one for every four persons in attendance. A maximum of 20 parking spaces may be gravel surface. The remainder of the parking area must be grassed (no impervious surface). Handicap accessible parking is required to be an improved/hard surface and to meet requirements of the North Carolina State Accessibility Code. No on street parking is permitted.
h. Meals. Other than as part of the reception events, no meals shall be served to the general public on the site.
i. Accessory uses. The accessory uses (e.g. playground, bathroom facilities, gazebo, barn) may be permitted as incidental to and limited to the patrons of the principal us.:

j. Signage. Reception/Banquet Facilities are allowed:
- One ground sign, located ten feet from street right-of-way and outside the site distance triangle. Maximum sign area is limited to sixteen (16) square feet with a maximum sign height of six feet.
- One wall sign per building. Maximum sign area is limited to eight (8) square feet.

Sec. 62.26. - Construction Module - temporary office.

(a) A North Carolina-licensed contractor working on a project, with a valid building permit, may temporarily use a construction trailer for office facilities, along with crew and staff.

(b) The construction trailer must be placed on the property where the building permit authorizes construction.

(c) The construction trailer must be removed within 30 days following completion of the work for which the permit was issued.

Sec. 62.27. - Cottage business.

Purpose: The county promotes economic development, supports entrepreneurism, and the valuable role that small businesses play in the county's development. A cottage business may be located in any residential district, recognizing that certain residential and nonresidential uses can coexist on the same site or adjacent to each other. It is further recognized that cottage businesses will not adversely impact adjacent residential uses, provided certain standards are in place. The services provided by the cottage business may be on or off site. The cottage business shall not compromise the health, safety, welfare, the quiet enjoyment of surrounding properties or contribute to diminishing property values. If the business grows beyond the point of meeting the regulations below, the business will have to move to a more appropriate commercial or industrial location.

If the Community Development Director determines that the use may exceed the scope and intent of this permit as an administrative approval, the director may refer permit approval to the Planning Board as a special use permit. (a) Cottage businesses are permitted in all residential districts, provided that they meet the requirements below. Certain categories may be allowed including but not limited to:

(b) The following specific standards shall be used in deciding an application for approval of a cottage business:

(1) The cottage business must not alter the residential character of the parcel and surrounding parcels.

(2) Such use may be carried out within a principal dwelling or in an accessory building on the same lot or on a lot adjacent to the principal dwelling owned and occupied by the same person.

(3) A manufactured home cannot be used as a detached cottage business.

(4) The parcel occupied by the cottage business must be at least two (2) acres.

(5) Only one cottage business is permitted per lot.

(6) No more than two persons shall work on the site of the cottage business, other than those residing on the property.

(7) All other requirements of this ordinance not otherwise specified in this section apply, including zoning and development standards applicable to the district.

(8) The detached business accessory structure shall be located in the side or rear yard if located on the same lot as the primary dwelling.

(9) The accessory structure for the business use cannot occupy more than 75 percent of the square footage of the principal dwelling structure associated with the business.

(10) All equipment shall be stored in an enclosed building. A three-quarters enclosed covered area is allowed for equipment related to outdoor activities and maintenance.

(11) Raw materials, machinery, equipment or future job units waiting for assembly or repair shall be stored within a structure or covered area as described.

(12) Open outside storage is prohibited.

(13) One nonilluminated sign is permitted, with a surface area not to exceed 12 square feet. The height, including the supporting structure shall not exceed six feet.

Sec. 62.28. - Dragstrip or racetrack.

(a) A minimum lot size of 40 acres.

(b) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the area transportation plan.

(c) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.

(d The design, intensity, and scale of the facility must be compatible with surrounding land uses and zoning

(e) Plans shall also specify the kinds of racing uses proposed for the property, expected numbers of participants and spectators for events.

Sec. 62.29. - 62.32 Reserved

Sec. 62.33. - Fire, Sheriff and Emergency Services

A site plan shall be submitted showing the location of proposed use, ingress and egress, as well as existing structures.

Sec. 62.34. - Reserved.

Sec. 62.35. - Family Care Home.

May not be located within one half-mile of each other.

Sec. 62.36. - Flea market—Outdoor.

a. There must be a minimum of at least five acres fronting a NC DOT state-maintained road.

b. Front, rear and side setbacks must be a minimum of 60 feet.

c. Evidence must be presented that any requirements of the Environmental Health Department have been met.

Sec. 62.37. - Greenhouse—Commercial.

a. The use must provide for all required off-street parking and loading on private property.

b. The use must have at least 50 feet of frontage on a state-maintained road.

c. No sales or display activity can be located on public land or within a road right-of-way.

Sec. 62.38. - Group Home

a) Parking and Loading: one space for every six (6) temporary residents or fraction thereof, plus one parking space for each employee on the premises.

b) One sign permitted, not to exceed six (6) square feet in area of sign face.

c) All group homes shall be licensed and/or sponsored by the appropriate state or local agency.

d) The zoning lot on which one rehabilitation residence is proposed shall not be located within a one-half mile radius of a zoning lot containing another such facility

Sec. 62.39. - Guest house

The lot size must be equal to two times the required average density for the district in which the lot is located. Location in a water supply watershed or flood prone areas may affect minimum lot size, uses and built upon limits. Additional regulations may apply and other certificates and/or permits may be required. One (1) of the dwelling units shall be occupied by the owners of the property as a permanent and principal residence.

General Requirements.

1. Only one guest house is permitted on each lot.
3. A guest house is not allowed on the same lot as two-family or multi-family dwelling units, lodging establishments, group care facilities, campgrounds or mobile home parks.
4. A property may not have a guest house and cottage business as defined by this UDO.
5. The principal dwelling must be a site-built home or a modular residence.

6. A site plan drawn to scale showing the location of the guest house, means of ingress/egress, and parking areas is required.

Development Standards.

1. The guest house shall be constructed according to all applicable state federal and local regulations including but not limited to dimensional standards, building height, floodplain elevation standards and North Carolina Building Code.
2. The guest house shall have a water supply and wastewater disposal system approved by the Environmental Health Department, or shall have access to public water/sewer.
3. The heated floor area of the guest house shall not be less than 400 square feet. The guest house shall not exceed 40% of the gross heated floor area of the principal dwelling or 1000 square feet whichever is less. Examples of guest house square footage:
    a. A 1,000 square foot principal dwelling is needed for a 400 square foot guest house. (40% of 1,000 = 400 square feet)
    b. A 2,500 square foot principal dwelling is needed for a 1000 square foot guest house. (40% of 2,500 = 1000 square feet)
    c. A 4,000 square foot principal dwelling is limited to a 1000 square foot guest house.
4. A guest house may have up to 2 (two) bedrooms.
5. The guest house shall meet all required setbacks for the district.
6. Two additional off-street parking spaces shall be provided for a guest house. Parking spaces may include garages, carports, or off-street areas reserved for vehicles. The additional parking spaces shall not be located in the front yard.
7. A guest house shall be located to the side or rear of the principal dwelling.
8. A guest house shall be separated by at least 15 feet from the principal dwelling and all other structures on the subject property.
9. A guest house may not be sold as a separate unit unless the property is subdivided pursuant to all applicable subdivision regulations.
10. If constructing a new site-built or modular dwelling on the same parcel, an existing principal dwelling unit that is 1000 square feet or less may be converted to a guest house if the standards of this section are met.

Sec. 62.40. - Sec. 62.42 Reserved.

Sec. 62.43. - Home occupation.

Purpose: A home occupation, by its very nature, is a low intensity use, occupying a minority area of the principal residential structure and in general centers around a home office environment. It also recognizes the trend of telecommuting and entrepreneurial opportunities. Such businesses may be located in any residential district, recognizing that certain residential and nonresidential uses can coexist in the same structure. Adequate standards should be in place to mitigate adverse impacts to adjacent residential uses. The services provided by the home occupation may be on or off site. When the business grows beyond the point of meeting the regulations below, the business will have to upgrade to a cottage business or move to a more appropriate commercial or industrial location.

No home occupation shall be permitted that:

a. Changes the outside appearance of the dwelling unit or is visible from a street.
b. Creates a hazard to persons or property or is a nuisance. (Hazard or nuisance is defined as anything harmful or offensive to the community or a member of it and for which a legal remedy exists. A hazard or nuisance including excessive noise, odor, and dust shall be determined by the Community Development Director in cooperation with Code Enforcement.
c. Generates more than two customer vehicles at any given time.

The following standards shall apply:

a. A maximum of 25 percent of the total of the usable floor area of the principal dwelling unit may be devoted to the home occupation.

b. No outdoor storage and/or display of product or services is allowed.
c. One nonilluminated sign is permitted, with a surface area not to exceed four square feet may be attached to the residence.

Sec. 62.44. - Homeless Shelter (Temporary Occupancy)

This Special Use Permit is applicable emergency shelters which provide *temporary* (overnight) housing to homeless individuals. Agencies and organizations may have permanent (year-round) office facilities within the building.

a. The development must adhere to all applicable district requirements including, but not limited to, lot size, minimum yard requirements (setbacks), height limitation, and development standards, except as specifically stated elsewhere in this UDO.
b. No such facility shall be located within one-half (1/2) mile of another existing homeless shelter or any other group care facility. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the Shelter is to be located to the nearest point of the lot line of another Shelter or group care facility use.
c. The facility shall be operated by a government agency or tax-exempt organization under Internal Revenue Service regulations and Section 501(3)(c) of the Internal Revenue Code. Proof of status shall be required as a part of the application.
d. A site plan drawn to scale and an interior sleeping arrangement drawing shall be provided with the application.
e. An operations and security plan shall be submitted with the application. Plan should include, but not limited to: list of safety rules and procedures for occupants and how rules are transmitted to occupants, hygiene and control of infectious diseases, storage and access to medication, shelter staffing and staff training (i.e. CPR), phone access for staff and occupants, and may address other items such as visitor protocol, intake process (i.e. log of shelter occupants, ID requirements, warrant and sex offender status check etc.), incident reporting, alcohol and drug use policies, curfews, loitering, and age restrictions.
f. The facility must conform to all applicable environmental health, building code, fire code, licensing laws and regulations.
g. The facility operator(s) shall provide continuous on-site supervision by employee(s) and/or volunteer(s) who are at least 21 years of age during all hours of operation.
h. All parking shall be on site. Off-street Parking shall be provided at 1 space per resident staff member plus 2 spaces per every 3 employees/volunteers on largest shift plus 1 space per each vehicle owned by the shelter and used for transportation.
i. A landscaping buffer which complies with Article V shall be provided along all property lines abutting residentially zoned property.
j. Non-operational and unregistered vehicles shall not be kept on-site. Facility grounds shall be adequately posted regarding unauthorized parking. Towing of unauthorized or abandoned vehicles on shelter property shall be the responsibility of the shelter operator. Shelter parking shall not impact existing businesses or residential neighborhoods.
k. Community and Neighborhood Contact: The operator shall post information on the exterior of the building about how to contact the operator with complaints, questions, or concerns regarding shelter operations.
l. The facility shall be well maintained at all times including existing and installed landscaping, fencing, lighting, and kept free of trash and debris.
m. No open fires or outdoor cooking by residents is allowed.
n. Exterior lighting shall be pointed in a downward and inward direction, away from adjoining properties and shall not impact surrounding properties.
o. The Special Use Permit will be valid for one year and will allow occupancy for a maximum of 120 consecutive days within that year period. The Special Use Permit may be administratively renewed each year upon proof that the shelter has been inspected by the building code and fire code officials and a new certificate of occupancy has been issued by the building code official. If

the Special Use Permit is not renewed within six months of its expiration date, then the Special Use Permit cannot be administratively renewed and a new public hearing shall be required. This does not apply to administrative and office areas which may be occupied for the entire year.

p. In approving the Special Use Permit, the Planning Board may impose other appropriate or more stringent conditions deemed necessary to protect the public health, safety, and general welfare, and the character of the area.

Sec. 62.45. - Hospitals/Medial facilities

a. Parking and Loading: One space per each 3 patient beds, plus 1 space for each staff or visiting doctor plus 1 space for each 2 employees on shift of average greatest employment.

b. Site plan requirements

   i) Structures - Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto
   ii) Circulation - Proposed points of access and egress and pattern of internal circulation
   iii) Parking and Loading - Layout of parking space.

c. Other Requirements: Must meet all requirements for licensing by the State of North Carolina. Where located adjacent to a residential district, there must be ample site area, adequate open space on all sides of the proposed 3 and other considerations, including landscaping, to the character of the neighborhood so that the nature of the residential district will be preserved.

Sec. 62.46. - Junkyard, Scrap Processor, and Auto Wrecking Establishments (Outdoor Storage)

a. The site must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.

b. All junkyards must provide a perimeter buffer, including road frontage. The buffer must consist screening that shall include a durable wall or fence at least 8 feet high and a double row of evergreens staggered at a maximum of six feet apart, and having a minimum height of six feet to block visual access to all adjoining properties.

c. No material may be stored closer than 100 feet from any property lines.

d. Wrecked vehicles or other junk or scrap shall be stored at a height no greater than 15 feet.

e. The applicant must supply evidence that indicates that he has an approved system for the storage and disposal of hazardous materials.

f. There shall be no accumulation of scrap tires on the premises. Tires which are not properly mounted on rims must be disposed of at the County Landfill or other approved disposal sites.

g. Operating hours shall not exceed the hours between 7:00 AM and 8:00 PM, except as required by the North Carolina State Highway Patrol for the purpose of emergency wrecker service.

h. Chain link fence requirements: When a chain link fence is used it must be a minimum of 8 feet in total height and must have vinyl strips woven between the links.

i. One ground sign, no larger than 50 square feet, is allowed per entrance to the facility. Indirect lighting (non-flashing illumination and motionless) is allowed.

Sec. 62.47. - Landfill—Beneficial fill.

Beneficial fill landfills are subject to the following:

1. The land is used for the disposal of inert debris strictly limited to concrete, brick, concrete block, used asphalt pavement, uncontaminated soil, rock or gravel.
2. Construction and demolition debris or land-clearing debris are not beneficial fill material and cannot be placed in a beneficial fill landfill.
3. The applicant must submit a surveyed map of the property prepared by a registered land surveyor. The survey map shall be either eight and one-half inches by 11 inches or eight and one-half inches by 14 inches. The map must show the following:

1. The name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed.
2. Disposal area delineated.
3. Certification and seal of the registered land surveyor or registered engineer.
4. The review officers' certificate to be signed by a county review officer.
5. A memorandum of beneficial-fill landfill, along with an attached survey map delineating the beneficial-fill landfill, must be recorded at the office of the county register of deeds. After the documents are recorded, a copy must be furnished to the county planning office.

d. Adequate soil cover must be applied monthly, as inspected by utilities and engineering department. The final cover must be a minimum of two feet of compacted earth, properly graded with establishment of suitable vegetative cover.
e. No excavation is allowed. The landfill site can only be used for the purpose of improving land use potential.
f. The applicant must agree to make the facility available for unannounced periodic inspections by county or state officials.

Sec. 62.48. - Landfill—Land-clearing and inert debris (LCID).

a. Where the designated area of the landfill is less than two acres, a special use permit is required by the county with notification to the state. Where LCID landfills are two acres or larger, a special use permit is required by the county and a state permit is required. Only one LCID is permitted per parcel.
b. The facility may only be used for the purpose of disposal of land-clearing debris, concrete, brick, concrete block, uncontaminated soil, used pavement asphalt, gravel or rock, untreated or unpainted wood, or yard waste. The facility may not be used for the disposal of construction or demolition debris.
c. The landfill must be located out of the 100-year floodplain and not in a wetland, as defined by section 404(b) of the Clean Water Act.
d. The landfill must be 100 feet from any property line.
e. The landfill must be 100 feet from any residential dwelling or commercial or public building.
f. The landfill must be 100 feet from any well.
g. The landfill must be 50 feet from all surface waters.
h. The landfill must be placed above the seasonal high groundwater table.
i. The applicant must furnish a certified soil analysis, prepared by a soil scientist, indicating that the proposed landfill will be located above the seasonal high water table and if located where proposed, will provide adequate separation from any source of groundwater to protect the groundwater from contamination.
j. The facility must be adequately secured by means of gates, chains, berms, or fences.
k. A sign, with minimum letter size of four inches, must be posted at the entrance stating "Authorized Persons Only" and "No Trespassing—Keep Out."
l. A survey map of the property must be prepared by a registered land surveyor. The survey map must be either eight and one-half inches by 11 inches or eight and one-half inches by 14 inches. The map must show the following:
    1. Name of the owner, property lines, north arrow, scale, bearings and distances taken from the deed. Disposal area delineated which meets all setback noted above.
    2. Certification and seal of the registered land surveyor or registered engineer.
    3. The review officers' certificate to be signed by a county review officer. A memorandum of the land-clearing and inert debris landfill along with an attached survey map delineating the landfill must be recorded at the office of the County register of deeds.
    4. After the documents are recorded, a copy must be furnished to the county planning office.

m. Adequate soil cover must be applied monthly, as inspected by the utilities and engineering department. The final cover must be a minimum of two feet of compacted earth properly graded with establishment of suitable vegetative cover.
n. The permit shall be issued for not more than five years. After the five-year period, the landfill must be properly closed or another LCID application must be submitted and approved.
o. A LCID landfill permit must be obtained from the county.
p. The facility must meet be permitted and operated in accordance with the state solid waste management rules.
q. The applicant must agree to make the facility available for unannounced periodic inspections by county or state officials.
r. The facility or practices must no cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife.
s. The facility or practices must not damage or destroy an archaeological or historical site.
t. Open burning of solid waste is prohibited.

Sec. 62.49. - Manufactured Home Park (MHP)

Purpose: The purpose of this section is to:

- Further the orderly layout of manufactured home parks;
- Help secure safety from fire, floods, panic, congestion and other dangers in manufactured home parks;
- Provide for adequate light, air, and open space; and
- Ensure that facilities for transportation, parking, water, sewer, and recreation are provided to residents of manufactured home parks within this chapter's jurisdiction.

Sec. 62.49.01. – Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cul-de-sac. A permanent dead-end street with an area at the dead end for the purpose of turning around, having a minimum radius of 50 feet.

Existing conforming manufactured home park. A park that is operating within a zoning district where manufactured home parks are permitted in accordance with this chapter and was approved and constructed under the county's manufactured home park ordinance adopted on March 30, 1973.

Existing nonconforming manufactured home park. A park operating outside of a zoning district where manufactured home parks are permitted or has been operating before the adoption of the County's manufactured home park ordinance (September 23, 1986).

Lot. Includes the word "plot," "parcel," or "tract."

Manufactured home park. A piece of land held in single or corporate ownership and developed in a unified manner for the placement of three or more manufactured homes to be occupied for living and sleeping purposes.

Manufactured home space. An area within an approved manufactured home park meeting all applicable requirements for the purpose of setting up a manufactured home.

One-way street. A street intended for traffic to flow in one direction.

Operating permit. A license issued by the Community Development Director to the operator of an approved manufactured home park authorizing the park to conduct business.

Public water system. A water system provided by a municipality and/or county jurisdiction. It does not include private community wells which are approved by the NCDENR.

Setup. The process of placement of a manufactured home on a manufactured home space and includes the minimum requirements for blocking, wiring, plumbing, and anchoring in accordance with applicable local, state, and federal construction regulations.

Steps. A structural component bonded or fastened as one unit in accordance with the state building code and is for the purpose of ingress and egress from manufactured homes.

Street and *road* are synonymous in meaning.

Street jog. An intersection where one-half of the cross street is offset from the other half of the cross street so that the two halves do not lay in a straight line.

Structure. Includes the word "building."

Tie down. The process of anchoring a manufactured home to the ground in accordance with applicable local, state, and federal construction regulations.

Two-way street. A street intended for traffic to flow in two directions.

Sec. 62.49.02. - Permitted uses.

Class AA, A and B (doublewide/multi-section and singlewide) manufactured homes meeting the following appearance criteria are allowed as permitted uses in manufactured home parks:

a. *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of two and one-half feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or with a Class C or better roofing material. If applicable, a retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
b. *Exterior finish.* The exterior siding must consist predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood, or fiber cement board comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
c. *Tongue removal.* The towing tongue must be removed upon final placement of the unit, underskirted or screened with shrubbery. Such shrubbery must be of a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue its effectiveness.
d. *Underskirting and permanent steps.* Underskirting and permanent steps must be provided. The manufactured home must have the entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning include, but are not limited to: brick, stone, natural or synthetic masonry, fiber cement board, or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning must be installed in accordance with the manufacturers' specifications.
e. *Deck.* The manufactured home must have either a deck or porch with steps. This structure must be located in front of the home. The deck or porch must be a minimum of 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 square feet, it must meet the building code. All steps, decks, porches and entrances must be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, building code.
f. Existing singlewide or doublewide manufactured homes not meeting the appearance criteria in subsection (a) above which are located in parks approved prior to the adoption of this chapter are grandfathered at their current location.

Sec. 62.49.03. - Nonconforming manufactured home parks.

Nonconforming manufactured home parks are subject to the provisions of *Article VII, Nonformances*.

Sec. 62.49.04. - Conforming manufactured home parks.

Manufactured home parks that are operating as existing conforming approved parks as of the effective date of the chapter (August 16, 2021) may continue to operate under the terms of the operating permit originally issued. However, any expansion of the park must conform to this chapter. If the park has its operating permit revoked or if it ceases operation for a period of 90 days, the park cannot reopen until it complies with all the standards of this section as well as all other applicable state and local laws.

Sec. 62.49.05. - Inspections.

In order to achieve the objectives of this chapter, representatives of all review agencies are authorized and allowed to enter the property on which a proposed or operating park exists and make such necessary inspections as may be required to enforce this chapter. Inspections will be made during the regular business hours of the agencies. Failure to permit such inspections may result in delays of plan approval or loss of the operating permit.

Sec. 62.49.06. - Loss of operating permit.

Upon issuance of an operating permit to an approved manufactured home park, the operator of the park must operate the park in compliance with this chapter and all applicable laws and regulations. If any of

the inspecting agencies discover a violation of an applicable regulation, the agency will notify the Community Development Director. Upon receipt of this notification, the Community Development Director shall notify the holder of the operating permit of the park of such violation and grant a 30-day grace period in which to correct the violation. If, at the end of 30 days, the Community Development Director and a representative from the agency find corrections have not been made, the operating permit may be revoked and returned, along with the tenant roster, within five days to the Community Development Director. The owner may reapply to open and operate the park at a later date; however, the park must meet any changes in this chapter that may be in effect at that time.

Sec. 62.49.07. - Notice to tenants.

Upon receipt of a tenant roster by the Community Development Director, notice shall be given to each tenant of the nature of the violation and loss of the permit and tenants will have to vacate the premises within 90 days.

Sec. 62.49.08. - Penalty.

Any person who is the owner or developer of a manufactured home park or any person who is the agent of the owner or developer of a manufactured home park who violates any section of this chapter shall be given notice of such violation by the Community Development Director and be given a maximum of 30 days to correct the violation or be guilty of a misdemeanor. Following notice by the Community Development Director, each day a violation exists, shall be considered a separate offense and may be prosecuted in accordance with G.S. 14-4. If at the end of 30 days the violation has not been corrected, the operating permit shall be revoked.

Sec. 62.49.09. - Manufactured home spaces.

(a) *Placement of homes.* Every manufactured home placed in a manufactured home park must be placed in a space that has been properly approved and is currently listed on the park operating permit.

(b) *Minimum acreage and space design.* Any site, tract of land or lot to be developed as a manufactured home park cannot be less than five acres in area, excluding street rights-of-way. The minimum space design in manufactured home parks is determined by the provision of sewer facilities. The following minimum space requirements also consider the need for adequate space to prevent overcrowding, prevent fire hazards, provide sufficient light and air:

(1) The minimum space requirements where public water and sewer are available are as follows:

a. Minimum space size is 5,500 square feet.

b. Minimum space width is 50 feet.

c. Minimum space setback requirements are:

1. On the street side or front, ten feet.
2. On sides, ten feet.
3. On rear or side opposite street, ten feet.

Note: Setbacks are measured to the body or box of the manufactured home and not to the pull structure or hitch on the end of the home.

(2) The minimum space requirements where public water is available and a septic system is used are as follows:

a. Minimum space size is 12,000 square feet.

b. Minimum space width is 50 feet.

c. Minimum space setbacks are:

1. On street side or front, ten feet.
2. On sides, ten feet.
3. On rear or side opposite street, ten feet.

Note: Setbacks are measured to the body or box of the manufactured home and not to the pull structure or hitch on the end of the home.

(c) *Corners marked.* Each space must have the front and rear corners clearly marked so that visual establishment of the boundaries of each space can be made. This requirement applies during the inspection and approval phases, and markers may be removed from a space after it is occupied by a home and has passed all inspections. Reestablishment of corners may be required by authorized inspectors at future times in order that verification of compliance with this chapter.

(d) *Spaces numbered.* Each manufactured home space must have a permanent address number to identify the space. The numbers must be four inches in height and be visible from the street in front of the space.

Sec. 62.49.10. - Street and parking requirements.

(a) *Access.* The primary access to all manufactured home parks must be either from a publicly maintained street on the NCDOT system or from a street that has been properly approved and placed on public record in accordance with this chapter.

(b) *Minimum street design.* All streets within a manufactured home park must be graded and paved with an impermeable material, four inches of compacted gravel, or other approved material. Minimum pavement widths of streets within manufactured home parks are as follows:

(1) Two-way street, 20 feet;

(2) One-way street, 12 feet;

(3) Cul-de-sac, 60 feet; and

(4) Speed bumps, 500 feet apart with the first bump being placed within the first 200 feet of street after entering the park.

(c) *Intersections.* All streets in manufactured home parks must intersect as nearly as possible at 90-degree angles; however, in no case can a street intersect another street at less than a 60-degree angle. Street jogs of less than 100 feet are not allowed.

(d) *Cul-de-sac.* All permanent dead-end streets or cul-de-sacs must be marked by a sign as a dead-end. The sign must be provided, installed, and maintained by the park owner/operator.

(e) *Parking.* Each manufactured home space must have a minimum of 400 square feet of parking area. This area may be in the form of off-street parking contained on the space or a parking apron a minimum of nine feet wide parallel to the street. The parking area must be paved with an impermeable material. If there is off-street parking on the space, a setback of a minimum of four feet is required between the edge of the street and the parking area. This drive or setback space must also be paved with an impermeable material.

(f) *Drive access to streets outside park.* In no case can a manufactured home space have direct access to a street or road outside the manufactured home park except through the approved street layout of the park.

Sec. 62.49.11. - Utility requirements.

(a) *Generally.* The approval and installation of all utility improvements in a manufactured home park, including but not limited to water, sewer, electricity, and solid waste collection, must be in accordance with this section.

(b) *Water.* Each manufactured home located in a manufactured home park must be supplied water from an approved public water system. Before a final approval and operating permit may be issued to a manufactured home park, the public water system must be installed to meet the local jurisdiction's standards. Individual water wells are not permitted in manufactured home parks.

(c) *Sewer.* Each manufactured home in a manufactured home park must be supplied with either a hookup to a municipal or package sewer system or an approved septic tank system. Before final approval and an operating permit may be issued to a manufactured home park, the proposed method of sewage disposal must be certified as being installed to meet all state and local regulations by the county division of environmental health or the local jurisdiction's standards.

(d) *Electrical hookups.* Each and every manufactured home space in a manufactured home park must be provided with its own separate metered electrical service. Installation of this electrical service

must be in accordance with the building code and all other state and local regulations that apply. Before a final approval or operating permit may be issued to a manufactured home park, the building inspector must certify that the proposed electrical service has been installed to meet all applicable codes.

(e) *Streetlights.* Streetlights must be provided in manufactured home parks in sufficient numbers and spaced appropriately to provide a continuous and uninterrupted lighting pattern on all streets in the manufactured home park. Installation of streetlights must be in accordance with applicable building code. Before final approval or an operating permit may be issued to a manufactured home park, the building inspector must certify that the streetlights installed meet all applicable codes.

(f) *Solid waste collection.* Solid waste and refuse collection must be provided in manufactured home parks in accordance with the solid waste requirements of the County Code as administered by the division of Environmental Health. Before final approval or any operating permit may be issued to a manufactured home park, the county division of Environmental Health must certify that the proposed method of solid waste collection is in accordance with the County Code.

Sec. 62.49.12. - Recreation and open-space requirements.

All proposed manufactured home parks must provide a recreational area for the occupants. The minimum requirements are five percent (5%) of the total park area. Recreational areas must be located to be free of traffic hazards and easily accessible to all park occupants.

Sec. 62.49.13. - Space preparation and grade.

All manufactured home spaces in proposed parks must be prepared and graded so there is a slope of no more than three percent where the manufactured home is to be located.

Sec. 62.49.14. - Setup and tie down.

All manufactured homes located in proposed parks must be set up and tied down in accordance with the building code and all other applicable state and local codes.

Sec. 62.49.15. - Signs.

Manufactured home park signs must be in accordance with sign regulations in article V, division 7.

Sec. 62.49.16. - Office.

Manufactured home parks are allowed to set aside one space for the placement of an office to conduct the business of operating the park. This office may be of permanent or manufactured construction. Activities associated with the office must be in accordance with the zoning regulations set forth in this chapter.

Sec. 62.49.17. - Buffer.

All manufactured home parks must provide a buffer between the park and any property adjacent to the park, including road frontage. All buffers must consist of a double row of evergreens staggered at a maximum of six feet apart, and having a minimum height of six feet at the time of planting, to block visual access to all adjoining properties. Existing on-site vegetation, which forms an opaque visual buffer, can be used in lieu of the evergreens.

Sec. 62.49.18. - Screening.

All manufactured home parks must provide screening around all waste disposal receptacles including dumpsters. The screening must be opaque and at least six feet high. This does not include chain link or wire fencing with plastic slats or screening fabric.

Sec. 62.49.19. - Operating permit.

To expand or establish a new manufactured home park, and operating permit must first be obtained. Application for this permit is made to the Community Development Director. Application materials must include a site plan/plat showing:

a. Names and addresses of owners, operators and developers
b. General location map noting school/fire district, township and zoning district
c. North arrow
d. Drawings to scale

e. Proposed lots and common areas
f. Proposed utilities and description
g. Property lines
h. Streets, easements and rights-of way
i. Lakes, streams, water courses
j. Buildings
k. Locations of any centralized waste collection facilities
l. Storm and surface water drainage plans

All required improvements must be completed before final approval can be issued. Upon final approval of the manufactured home park, the Community Development Director will issue an operating permit. The operating permit does not exempt the owner or operator from any other permits that may be required by federal, state, or local laws. This operating permit must be placed in a conspicuous place in the park and be available for inspection upon demand by authorized officials.

Sec. 62.50. - Manufactured Housing During Temporary Site-built Home Construction.

a. Permits for this use may be obtained a maximum of six (6) months before obtaining the zoning and building permits for the primary residential structure.
b. Class A or B (singlewide) manufactured homes can be temporarily located on a parcel if it is located within the Residential Agricultural (RA) District for a period of, eighteen months, in association with an active building permit and construction of a site-built or modular principal dwelling.
c. The manufactured home must be placed in the side or rear yard of the principal dwelling.
d. The manufactured home must be connected to public or well water and a sanitary sewer or septic system.
e. A manufactured home permitted for this purpose may not be leased to a third party.
f. A temporary certificate of occupancy may be issued, for a period of 60 days, during the transition of moving out of the singlewide and into the permanent dwelling unit. However, a final certificate of occupancy will not be issued until the manufactured home is removed from the site.
g. At the time permanent power is connected to the new principal dwelling, power must be disconnected to the manufactured home within 30 days.
h. Doublewide manufactured homes are not eligible for this permit due to their more permanent nature as compared to singlewide manufactured homes.

Sec. 62.51. - Manufactured Housing for Temporary Custodial Care

For purposes of this section Custodial Care is defined as assistance with activities of daily living, including help in walking, bathing, preparing meals and special diets, and supervising use of medications but not requiring constant attention of medical personnel.
Minimum Lot Size: Two (2) Acres.

Other Requirements:

1. Temporary unit shall be a Class AA, Class A, or Class B. All temporary units must meet the appearance criteria stated in **62.53**.
2. The placement of the manufactured home adjacent to the existing dwelling unit shall not create unhealthy or unreasonable living conditions.
3. Permit will be granted when the landowner or occupant, or a family member of the landowner or occupant, requires at-home custodial care.

Permit Issuance:

Permits will be not issued until the applicant complies with the following:

a. Environment Health Approval for well and septic system (if applicable)
b. A letter from the attending physician, on the physician's letterhead and dated within thirty (30) days of applying for the permit stating the person's name and verifying that:
    1. the person or persons occupying the manufactured home need custodial care and the person or persons occupying the existing principal dwelling will provide such care; or
    2. the person or persons occupying the existing principal dwelling need custodial care and the person occupying the manufactured home will provide such care.
c. An affidavit signed by the applicant declaring and acknowledging that the applicant will remove the second dwelling within 60 days after the need for care ceases to exist or after the temporary permit expires, whichever occurs first.
d. Payment of permit fee.

Permit Renewal:

1. Permits shall be granted for a period of two (2) years.
2. Permits may be renewed with a letter from the attending physician certifying the continued need for custodial care. Physician's letter must be dated within thirty (30) days of application for a renewal permit. Permit fee is due at time of application.

Permit Revocation:

1. The unit shall be removed from the lot within sixty (60) days of expiration of the initial permit or renewal permit or when the need for care no longer exists, whichever occurs first.
2. If during the time of a valid Permit (whether initial permit or renewal permit), it is determined by the County that the foregoing conditions cease to be complied with or the need for care no longer exists, the Permit shall automatically be revoked and the property owner shall remove the manufactured home within thirty (30) days.
3. At any time, upon request by the County, permit holders shall provide a letter from the attending physician, within 15 days of the request, stating need for custodial care still exists.

Sec. 62.52. - Reserved

Sec. 62.53. - Manufactured Homes on Individual Lots

As of August 16, 2021, new manufactured homes on individual lots are permitted only in the Residential Agricultural (RA), Residential Mixed (RM) or the Manufactured Home District (MHD). The following appearance criteria apply to manufactured homes located on individual lots. (Manufactured Homes located within a mobile home park are subject to the standards of Mobile Home Parks found in Sec 62.49.)

Class A and B

a. (August 16, 2021) Class B manufactured homes are permitted in manufactured home parks located in the MHD district and not on single family residential lots.
b. *Class A* manufactured homes may be permitted in the Residential Agricultural (RA) and Residential Mixed (RM) district with the following requirements:
    i) a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the N.C. Uniform Residential Building Code for One- and Two-Family Dwellings, unpierced except for required ventilation with access installed under the perimeter, and no visible exposed concrete block; or,
    ii) a continuous, concrete curtain wall or skirting that consists of solid, segmented decorative concrete block measuring eight (8) inches in height by twenty-four (24) inches in length by two and one half (2½) inches in thickness with interconnecting slots connected by a durable rigid I-beam that integrates the blocks into a stable concrete masonry skirting unpierced except for required ventilation with access installed under the perimeter; or

iv) a replica masonry product that provides the authenticity of real brick or stone, with panels made from a moisture-, weather- and UV light-resistant material that will not support combustion.
v) or a fiber cement board product comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction installed to the standards of (i. or ii. above).
vi) Length-width ratio. The main portion of the building must have a length not exceeding four times the building width.
vii) Roof construction and pitch. The pitch of the main roof of the building must have a minimum rise of two and one-half feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
viii) Exterior finish. The exterior siding must consist predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or fiber cement board, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
ix) Tongue removal. The towing tongue must be removed upon final placement of the unit or screened with landscape plantings if not removeable.

Class AA doublewide/multi-section manufactured homes are subject to the requirements of this Section. All class AA doublewide and multi-section manufactured homes must meet the following appearance criteria:

(a) *Length-width ratio.* The main portion of the building must have a length not exceeding four times the building width.
(b) Eaves. The eave projection must measure no less than six inches and may include gutters and downspouts.
(c) *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of two and one-half feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load-bearing walls of the existing structure.
(d) *Exterior finish.* The exterior siding must consist predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or fiber cement board, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
(e) *Tongue removal.* The towing tongue must be removed upon final placement of the unit or fully screened with shrubbery/landscaping if not removable.
(f) *Underskirting and permanent steps.* Underskirting and permanent steps must be provided as follows:
    (i) Class AA manufactured homes in the Residential Agricultural (RA) district must be permanently placed on a brick, concrete block or other masonry foundation. The foundation must be continuous and unpierced except for ventilation as required by the state regulations for manufactured/mobile homes.
    (ii) All doublewide and multi-section manufactured homes which are placed in the MHD where the home and lot are in separate ownership, must have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state

regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning include, but are not limited to, the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning must be installed in accordance with the manufacturers' specifications.

(iii) All doublewide and multi-section manufactured homes must have either a deck or porch with steps. This structure must be located in front of the home. The deck or porch must be a minimum of 36 square feet. All steps, decks, porches and entrances must be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, the building code.

Class C manufactured homes are not permitted in Rockingham County.
[*Amended March 21, 2022*]

Sec. 62.54. - Mini-warehouse.

a. All mini-warehouse compartment doors must open on an internal access driveway having a minimum paved width of 20 feet.
b. Facilities can only be used for dead storage of materials or articles and must not be used for assembly, fabrication, processing or repair.
c. The storage of hazardous, toxic, explosive substances, or any other substance requiring a "704 placard" is prohibited.
d. Outdoor lighting must be directed away from adjacent properties and public rights-of-way.
e. Mini-warehouse units must be constructed with the compartment doors facing internally, not facing a public street. An exception is allowed for mini-warehouses located on corner lots provided that shrubbery or low-growing evergreens are planted every five feet along the frontage of the secondary road.
f. Any side of a building facing a public street must be constructed with a facade of brick, stone, wood, or split-faced block. An exception is allowed for mini-warehouses located on corner lots provided that shrubbery or low-growing evergreens are planted every five feet along the frontage of the secondary road. Building facades which do not face a public street are not required to meet overlay or special district architectural regulations concerning metal treatment.
g. If the mini-warehouse facility has a locked and keyed entrance, two staging spaces must be located outside of the public right-of-way.
h. Open storage is prohibited.

Sec. 62.55. - Reserved.

Sec. 62.56. - Mining of earth products.

(a) Two copies of a completed mining application form and an approved mining permit from the state department of environment, health and natural resources, land quality section.
(b) An operation plan, which must include the following:
    (1) The date proposed to commence operations and their expected duration.
    (2) Proposed hours and days of operations.
    (3) Estimated type and volume of extraction.
    (4) Description of method of operation, including the disposition of topsoil, overburden, and byproducts.
    (5) Description of equipment to be used in the extraction process.
    (6) Any phasing of the operation and the relationship among the various phases.
    (7) Operating practices to comply with the performance standards applicable to the operation.

(c) For mining activities, not including sand, soil and clay, the following specific standards must be used in deciding an application for approval of a special use permit:

(1) The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material from the nearest public road to the yard area. Also all permanent roads within 300 feet of any residentially zoned land should be treated the same.

(2) Roads, other than permanent roads, must be treated with dust inhibitors, such as water wagons, to reduce the generation of dust.

(3) Where the proposed extraction takes place within 300 feet of a dwelling, school, church, hospital, or commercial or industrial building, public building, or public land, a security fence at least six feet high must be installed.

(4) An undisturbed buffer of a minimum of 100 feet must be maintained around the mining activity at all times, excluding entrance roads.

(5) No off-site refuse may be dumped on site unless a permit has been issued by the state division of solid waste management for such an activity.

Sec. 62.57. - Mobile Food Vendor
Requirements

1. A copy of any approval required by Rockingham County Department of Health, pursuant to the rules governing sanitation of restaurants and other food handling establishments.
2. A description, including the dimensions and a photograph of any pushcart or motorized food unit to be used in the operation of the business.
3. A description of the type of food and/or beverages to be served. *The sale of any other merchandise is prohibited.*
4. The name, home address and business address of the applicant, and the name and address of the owner of the vending business, or of the cart or motorized vehicle to be used in the operation of the vending business if other than the applicant.
5. No vending is allowed within 10 feet of an entranceway to any building.
6. No vending is allowed within 50 feet of any driveway or entrance to a police or fire station, or within 10 feet of any other driveway or alley way.
7. No vending is allowed within 10 feet of a crosswalk at any intersection. No vending within 20 feet of any bus stop or bus stop sign.
8. No vending is allowed within 50 feet of a fire hydrant. No vendor shall conduct business in a way that would restrict or interfere with the ingress or egress of any abutting property owner or tenant or become a public nuisance, increase traffic congestion, delay, or constitute a hazard to traffic, life or property or an obstruction to adequate access for fire, police or sanitation vehicles.
9. Any covering for a pushcart shall be limited to a single mast umbrella, attached to the cart. Tent like structures or canopies are specifically prohibited.
10. No pushcart or motorized food vendor may vend within the public right-of-way of any road. All sales shall be conducted at least ten feet from all public rights-of-way.
11. Vendors will be required to remove trash and litter from the mobile food site each day and to maintain cleanliness of the site during the hours of operation. The vendor must provide a minimum of one receptacle for use by patrons.
12. Vendors may not bring tables and chairs to the site.
13. Signage: Mobile food vendors may have signage on their vehicle, not to exceed 32 square feet total per vehicle including letters and/ or logo advertising the business. Square footage may be divided between a maximum of two faces. No roof signs are allowed. A single attached menu board totaling 6 square feet is allowed for each truck.
14. Mobile food vendors must obtain a commercial zoning permit prior to operation.

Sec. 62.58. - Museum.

(a) The facility must have frontage on a major collector road or higher classification as shown on the county thoroughfare plan or a major thoroughfare as shown on the urban area transportation plan.
(b) A minimum lot size of 40,000 square feet is required.
(c) Retail sales are limited to ten percent of the total usable floor area of the use.
(d) No external evidence of retail sales is permitted.
(e) The light source of outdoor lighting fixtures must not be directly visible from property outside the zoning lot on which the fixture is located.
(f) One nonilluminated sign with a maximum area of 16 square feet is permitted.
(g) The Board of Adjustment may grant a special exception for the pavement of parking spaces if graveled spaces would better preserve the historic character of the property.

Sec. 62.59. - 62.62. - Reserved

Sec. 62.63. - Nursery/landscaping business.

(a) The site must have at least 100 feet fronting along a state-maintained road.
(b) The minimum lot size must be 40,000 square feet.
(c) Mulch and gravel piles, etc., must be located out of the front, rear and side setbacks.

Sec. 62.64. - Nursing Homes, Rest Homes, Day Care Facility

(for 6 or more persons)

a) Minimum Lot Area: As prescribed by State regulations where applicable
b) Parking and Loading: Day Care -- One space for each regular employee and one additional space for every 6 children or adult client or fraction thereof.
c) Nursing Homes: 1 space for each 3 patient beds
d) Screening and Fencing: Play space shall be enclosed by a fence at least four (4) feet high
e) Plans Required, Must Show:
    i) Structures - Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto
    ii) Circulation - Proposed points of access and egress and pattern of internal circulation
    iii) Parking and Loading - Layout of parking spaces
    iv) Other Details - Location and extent of open play area. All required state licenses and permits must be obtained.

Sec. 62.65. - Outdoor Display

An outdoor display area and sale of merchandise in non-residential zoning districts is allowed in conjunction with a legally permitted business provided the standards listed herein are met.

1. Outdoor Display areas shall:
    a. not be located in fire lanes, drive aisles, loading zones, zoning setbacks, required parking spaces, site triangles, and landscaping, screening or buffer yards;
    b. not be located more than twenty (20) linear feet from an external wall of the building;
    c. be designed as an integral part of overall site development and shown on the site plan;
    d. limited to 20 percent of the building floor area or 12,000 square feet, whichever is less except for vehicle sales lots and nursery product sales; and
    e. be located a distance equal to the setback for the zoning district in which the use is located. However, in all cases, minimum 10-foot setback is required from the side and rear property lines. A minimum 20-foot setback is required if a side or rear property line abuts a street.
2. No additional signage shall be permitted in association with Outdoor Display areas.
3. Outdoor Display Areas may include, but not be limited to, outdoor in-service vending machines; fresh produce; Christmas trees and other live plants; bagged ice in sales freezers; firewood pre-packaged and stacked or in sales bins; propane tanks in exchange racks; shopping carts for customer use; and newspaper racks.

4. Displayed merchandise other than plant materials for sale (e.g., Christmas trees, nursery trees, etc.) shall not exceed a height of six feet.

Sec. 62.66. - Outdoor Storage, Non-Residential

Outdoor Storage Area Development Standards.

An Outdoor Storage Area is allowed as an accessory use for a legally permitted business in non-residential zoning districts, provided the standards listed herein are met.

1. An Outdoor Storage Area in non-residential districts is limited to the following:
    a. Outdoor Storage in association with a commercial or industrial business for the storage of goods that have a large size, mass, or volume and are not easily moved or carried without the use of a mechanical lifting device. This includes, but is not limited to, items such as lumber, large stacks of outdoor furniture, mulch, fertilizer, equipment, and other similar uses;
    b. Any motor vehicle located on the premises of a business enterprise being operated in a legally zoned place and manner if the vehicle is necessary to the operation of the enterprise (i.e. operators of fleets used for public or business transportation and delivery);
    c. Outdoor Storage as a business enterprise being operated under a Special Use Permit for a "Junkyard" as defined by this ordinance and in NCGS 136-143:
    d. Any motor vehicle located on the premises of a business enterprise being operated in a lawful place and manner primarily for the purpose of making repairs to motor vehicles;
    e. Outdoor Storage in connection with an essential service or construction activity for which there exists a valid building permit; and
    f. Any motor vehicle located in an appropriate storage place or depository maintained by the County.
    g. Adhere to standards provided
2. Outdoor Storage Areas shall be:
    a. prohibited in fire lanes, drive aisles, loading zones, zoning setbacks, forward of the front building line, required parking spaces, site triangles, and buffer yards;
    b. designed as an integral part of the overall site development, limited to the area shown on the site plan and approved as part of the site plan review.
    c. located in the side or rear yard;
    d. screened in accordance with section 54.05
3. The following are prohibited as a permanent outdoor storage unit or as an accessory building:
    a. Freight and/or shipping containers, except as allowed under Sec. 62.81; and
    b. Any apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle (i.e. tractor trailers)

[*Amended April 17, 2023*]

Sec. 62.67. - Outdoor Storage in Residential Zoning Districts

A. Location. Only one area, no greater than 600 square feet, on a parcel in any residential zoning district may be designated for Outdoor Storage.

B. General Standards.

1. Outdoor Storage includes building materials, junked motor vehicles, and solid waste.
2. All Outdoor Storage in excess of 600 square feet is prohibited and shall be treated as equal to a junkyard as defined by this ordinance.
3. A site plan may be required. Site plan shall show the location, screening and size of the Outdoor Storage area, all structures on the parcel and any other site features requested by Code Enforcement or Planning Staff. The site plan must be approved as part of a zoning action or by the Planning Staff.
4. All Outdoor storage shall be screened from view as follows.

5. Materials stored within the Outdoor Storage area shall not be higher than the screening wall or fence. Fences or walls shall be a minimum of eight (8) feet in height and shall not exceed 15 feet in height.
6. Fencing or walls may be constructed of chain link fencing with slats or fabric, wood, vinyl, masonry, or stone.
7. In lieu of fences or walls, existing vegetation may be used to screen the Outdoor Storage area only if: evergreen vegetation can provide a year-round screen; stored materials are not visible from adjacent parcels, streets and roads; and the Code Enforcement Officer or Planning Staff approves in writing the use of existing vegetation for screening.

C. Outdoor Storage of Motor Vehicles.

1. Only motor vehicles intended for personal use shall be parked or stored on any property zoned for residential use.
2. No work vehicles may be stored on any residentially zoned property except as listed below in subsection 3. “Exceptions.” (a.)(i.) below.
3. Exceptions**.**
   a. This section shall not apply to:
      i. work-related vehicles customarily used for commuting to and from work (i.e. light duty truck, car or van) may be parked overnight and on weekends on residentially zoned property; or a semi-cab used by over the road owner-operators;
      ii. any motor vehicle located in an enclosed building;
      iii. the parking and/or storage of personal recreational vehicles including, but not limited to, motor homes, vans, campers and travel trailers in residential districts; and
      iv. one junked motor vehicle on a single parcel only if the junked motor vehicle is located in the rear yard.
   b. The exceptions listed in 3.a. above shall apply only if the vehicle concerned is listed with the County Assessor for tax purposes (unless not required to be by law) and is kept and maintained in a manner that does not constitute a public health or safety hazard or a public nuisance as determined by a Code Enforcement Officer or by the County Health Department.
4. Outdoor Storage of Junked Motor Vehicles.
   a. Up to three additional junked motor vehicles (for a total of 4) may be stored on a single parcel only if the vehicles are located in the rear yard and screened from view. These three junked motor vehicles shall be counted toward the allowed 600 square feet of Outdoor Storage allowed. Each car or small pick-up shall be counted as 150 square feet of storage area.
   b. All other junked motor vehicles must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicles cannot be seen. Junked motor vehicles in this category will not be counted toward the 600 square foot limit.
   c. A vehicle in the process of repair or restoration stored outdoors shall be treated as equal to a junked motor vehicle.
5. Outdoor Storage of Large Vehicles.
   Large Vehicles: The parking and/or storage of motorized and non-motorized vehicles in excess of 10,000 pounds gross vehicle weight shall be prohibited in all residential and office and institutional zoning districts except for loading and unloading purposes; for emergency home service; or for use in the conduct of a legal non-conforming use.
6. Outdoor Storage of Manufactured Homes.
   Manufactured homes shall not be parked, stored or used for storage in or on any lot in any zoning district.

D. Outdoor Storage Units.

Any permanent outdoor storage unit with any dimension greater than 12 square feet must meet the requirements for an accessory building under the most current version of the North Carolina Residential Building Code.

1. The use of freight and/or shipping containers as a permanent Outdoor Storage facility or accessory building is prohibited.
2. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be allowed to be used as a permanent storage facility or accessory building in any zoning district.
3. Temporary Storage Units are allowed, but must be removed after 30 days.

E. Compliance.

1. The Code Enforcement Officer has the authority to determine and enforce compliance with the development standards required by this section.
2. All vehicles, outdoor storage areas, or storage units made non-conforming as a result of any amendment to this section shall be removed or brought into compliance within one year (12 months) from the effective date of such amendment.

Sec. 62.68. - Paintball Facility (Outdoor)

This Special Use Permit is applicable to outdoor commercial and non-commercial paintball facilities and courses.

(g) **Lot Size.** There is no minimum or maximum lot size. Lot shall be of sufficient size to accommodate the staging, field and play areas, parking, spectator areas, structures, setback/buffer areas and septic systems (if applicable).

(h) **Setbacks:** For areas where paintballs may be discharged including staging, fields and play areas: 150 feet from property lines. For parking, spectator areas, and all structures: 100 feet from property lines and 150 feet from any residence.

(i) **Buffer Required:** A minimum one-hundred (100) foot vegetative buffer along all property lines shall be provided. The buffer shall be of sufficient height and density to screen from view the facility and to attenuate (lessen) noise levels. No activities shall take place within the required buffer.

Note: Location in a watershed or flood prone area may affect uses, density, lot size, and built-upon limits. Additional regulations, certificates and permitting requirements may be imposed.

(j) **Site Plans Required:** Site Plans drawn to scale shall be submitted at the time of application for the special use permit and shall include:

- Dimensions of property and lot size;
- Location (including setbacks), use and dimensions of all existing and proposed buildings;
- Location (including setbacks), use and dimensions of all outdoor activity areas and the types of field play (i.e. woods, speedball, etc.);
- Public and private roads accessing the property;
- Parking areas and number of parking spaces;
- Sanitary sewer facilities where applicable;
- Location and heights of all fences, vegetative buffers and screening;
- Location of all flood zones, watersheds, wetlands, and streams;
- Location of posted safety rules; and
- Other site-specific information as requested by staff

(k) **Operations Plan Required:** A plan of operations shall be submitted at the time of application for the special use permit and shall include:

- Days and hours of operation;
- Number of participants and employees on site at any one time;

- Ratio of players to referees;
- Types of equipment to be utilized by users of the site;
- Safety plan and list of safety rules and procedures;
- Type of compressed air fuel to be utilized on the site;
- Storage and maintenance procedures for the compressed air fuel; and
- Indicate if tournaments will be held at the facility and include information on frequency, duration, number of participants, parking accommodations, sponsorship, league affiliation, etc. regarding tournaments to be held on site;

(f) Insurance Required:

All operations shall be properly insured by a company or organization licensed to operate in the State of North Carolina. Insurance policy must specifically state that it includes paintball activities. Proof of such insurance shall be provided to County.

(g) Parking. 1 space for each employee on the shift of greatest employment and 1 space for every 2 participants on site at any one time, to be based on information provided in the operations plan. Paving is not required except for required handicapped spaces.

(h) Lighting. Lighting shall be pointed in a downward and inward direction, away from adjoining properties. Full cut-off or fully shielded light fixtures shall be used where feasible.

(i) Other Requirements:

- Field/Play areas shall be enclosed by 20' high mesh netting. Netting shall be properly maintained and replaced as needed.
- No outdoor storage is allowed.
- Public restroom facility shall be provided on site as approved by the Environmental Health Division of the Rockingham County Department of Health and the Building Inspectors. If the approved restroom facility is portable, it shall be maintained by a sanitation disposal service.
- Retail sales conducted on the property shall be accessory and incidental to the paintball facility and limited to paintball related supplies for participants of the site.
- Food and beverage sales must meet Environmental Health regulations.
- No alcoholic beverages shall be sold or allowed on the premises.
- PA Systems and/or amplified sounds are not permitted.
- The entrance to the facility shall be permitted by the North Carolina Department of Transportation. A copy of the driveway permit shall be provided to the County.
- Paintballs used at the facility shall be non-toxic, water soluble, and environmentally safe.
- Any requirement of this Special Use Permit may be amended by the Planning Board upon determination that the change or changes in combination with other elements of the site design shall provide adequate protection to adjoining properties.

Sec. 62.69. - Poultry Breeding Facilities (Dry Litter Operations)

Lot Size. Minimum lot size shall be 20 acres.

Setbacks. All structures, buildings, or enclosed areas, used for the housing of poultry and for composting facilities shall be a minimum of 150 feet from all property lines.

Use Separation. No poultry confinement operation will be constructed closer than 250 feet from any occupied residence, place of public business, or established place of public assembly without written consent of the affected residents and owners. This set-back provision shall not be applicable to a facility constructed within the minimum required distance to a residence, place of business or place of public assembly owned, possessed, or controlled by the owner of the poultry facility.

Operation. Any violation of County Health Department regulations concerning the operation of the facility shall be considered a violation of this ordinance. Disposal of dead birds shall be handled with a

composting facility. These shall be built according to specifications set out by the NC Department of Agriculture. In case of a catastrophic loss of birds, the disposal plan shall be approved by the Community Development Department. Operators must supply the Community Development Department with documentation of an approved waste disposal plan.

Sec. 62.70. - 62.72. Reserved

Sec. 62.73. - Public Utilities and Public Works Facilities, (Substations, Transformers, Water or Sewage Treatment Plants, etc.) Major, Minor

Screening and Fencing:

Substations and transformer stations shall be enclosed by a fence not less than six (6) feet in height which shall be approved by the Planning Department and shall have an approved landscaped buffer around the perimeter of the use.

Site Plans Required, Must Show:

Structures - Location and approximate size of all existing and proposed structures within the site and all buildings and structures within 500 feet.

Circulation - Proposed points of access and egress

Parking and Loading - Location and arrangement of all proposed off-street parking

Other Details -

(a) Proposed provisions for fencing and other protective screening at the lot lines adjacent to abutting residential property.

(b) The anticipated service area of the facility to be constructed.

Sec. 62.74 - Recreational Vehicle during new home construction

Intent. The Recreational Vehicle (RV) Temporary Stay permit allows for the use of recreational vehicles as temporary shelter while promoting individual and public health, safety and welfare. A property owner may obtain a temporary stay permit by adhering to the following criteria:

(a) When constructing a new residence or repairing a residence that has been substantially damaged, a property owner may obtain RV temporary stay permit no sooner than 90 days before obtaining a building permit for the primary residence.

(b) All building permit application materials (including a site sketch representing the location of the proposed RV) shall be submitted at the time of application for this permit.

(c) A permit for temporary RV occupancy during home construction or reconstruction. is valid for period of up to 18 months. A property owner may request a one-time extension of 6 months for delays caused by exceptional reasons beyond the control of the property owner or contractor as to be determined and approved by the Community Development Director.

(d) All wastewater must be disposed of in a manner satisfactory to the Rockingham County Environmental Health Services. Wastewater may be:

1. Stored in a tank attached to the RV and disposed of at an approved facility;
2. Collected and removed by an approved waste removal company; or
3. The RV wastewater system may be connected to an approved sewer access or septic system permitted by Rockingham County Environmental Health Services. Dumping or improper disposal of sewage shall be punishable by an immediate fine of $1000. The permit holder will also be responsible for the costs of any required remediation.

(e) Where applicable, once approval for the residential septic system is obtained, it must be marked off in a manner to prevent encroachment during the period of construction.

(f) The RV must be connected to an installed potable water well or public water utility.

(g) The applicant must obtain an electrical permit for an approved RV service.

(h) No more than one RV may be inhabited per parcel under these provisions.

(i) Use of an RV for temporary shelter must cease within 60 days of receiving a certificate of occupancy for the permanent residential structure.

(j) If the property is located in a special flood hazard area as determined by the official FIRMs or DFIRMs for Rockingham County, the RV must comply with the provisions of Sec. 42.01.15(f) of the Rockingham County Unified Development Ordinance.
(k) The RV Permit will be immediately revoked and power discontinued upon failure to meet any of these requirements.
(l) Per Section 21.02(a) of the UDO, the Community Development Director or their designee may inspect the premises at any point during the permit duration.

[Amended October 18, 2021]

Sec. 62.75. - Rural Guest Establishment

Intent. The intent of the rural guest establishment is to provide opportunities for tourist facilities in the rural sections of the county so long as the traditional character of neighborhood is maintained.

1. *Minimum Lot Size***:** 20 acres

a. Number of Guest Rooms: 4 -12 rooms; Occupancy shall not exceed 24 guests.

b. Setbacks**:** 100 feet from all property lines, except for any existing renovated historic structures, a detached guest unit shall be setback at least 100 feet from all property lines and 60 feet from the main lodge, other cabins and any on-site recreational area. Staff may approve up to a 15-foot variance from the 60-foot internal setback due to topographic issues and/or environmental health septic and well regulations.

c. Other Standards. A site plan approval is required. The following development standards shall also apply:

2. *Access and Roads*. Entrances and exits from the state-maintained road shall provide safe ingress and egress from roads.
    a. Any establishment that is not located on a state-maintained road shall provide a copy of the deed to the Planning Department that establishes the ingress/egress easement. The deed shall demonstrate that the easement may be used to support the establishment. Documentation may also include copies of any road maintenance agreement.
    b. A dedicated easement or strip of land that is a minimum of 30 feet wide shall be provided to the site from a public road that has a minimum 18-foot wide travel way.
    c. There shall be no more than two points of public access to a facility. This requirement shall not preclude an additional access for emergency vehicles only if requested by the Fire Marshall, Emergency Management or other government agency.
    d. Driveways shall not be located within a required buffer yard area except as minimally necessary to access the site.
3. *Guest rooms*. A “cabin” may contain up to 3 guest rooms. Guest rooms in a “cabin” may contain full kitchen facilities or “limited kitchen facilities” (i.e. microwave, coffee maker and small refrigerator).
    a. For historic structures, no changes may be made to the exterior appearance except normal upkeep.
    b. For new structures, exterior materials not commonly found in use on residential buildings in Rockingham County and highly reflective materials shall not be permitted.
4. *Uses Limited*. Guest units are limited to rentals of thirty (30) days or less.
    a. On-site facilities shall be used only by guests and employees.
    b. Outdoor events (e.g. weddings, receptions, parties) or similar activities shall be permitted, only if there is sufficient overflow parking available on site. Overflow parking does not have to be paved or graveled but must be on a suitable (even) surface.
    c. No manufactured housing, RVs, tents, or temporary shelters are allowed on the property.
    d. Location in a critical or protected area of a watershed may limit the uses.
5. *Open space and recreation*. A minimum of 75% of the site shall remain in an agricultural, forestry and or open space use. Recreational uses customarily incidental and subordinate to rural guest

establishments are permitted in the open space area and may include: swimming pools and related facilities, boating facilities, tennis and other sports courts, equestrian facilities, picnic areas, children's play equipment and passive recreation facilities. Outdoor recreational areas shall exclude uses employing motorized vehicles and/or firearms and any other use which generates excessive light and or noise. Driveways and parking areas supporting these recreational facilities may also be located in the open space area.

6. *Outdoor storage*. No outdoor storage shall be permitted. This shall include materials, equipment, parts, supplies, waste (except in approved waste containers), and similar items. Approved waste containers shall be located in the rear of the buildings and be completely screened from public view.
7. *Screening/landscaping*. Landscaping and buffers shall meet the requirements of Article V.
    a. If existing topography and natural vegetation does not provide an adequate visual barrier, selective screening may be required.
    b. All parking shall be screened from adjoining properties used or zoned for residential or agricultural purposes.
    c. Property recognized by the state or the county as a historic site or as containing a significant historic structure, may apply for a full or partial waiver of the road-front land use buffer to maintain the historic character of the site and the traditional view of the house from the roadside. A request for a full or partial waiver of the buffer shall submit evidence that the property is listed or eligible to be listed on the National Register of Historic Places or recognized by the state or the county as a place of historic interest.
8. *Parking*. One parking space per guest room or unit is required for the overnight accommodations. Additional parking spaces as needed to accommodate all accessory uses as per Article V.
9. *Exterior lighting standards*. Fully shielded lighting fixtures shall be used in all areas. The light element (lamp or globe) of a fixture shall not extend below the cutoff shield.
    a. The maximum height of pole-mounted exterior lighting shall be 25 feet.
    b. All exterior lighting shall be extinguished from 10:00 p.m. to 6:00 a.m., except for exterior lighting that is determined necessary for security purposes.
    c. No lighting shall be directed onto adjacent property. Floodlights or other high-intensity lighting shall be prohibited.
10. *Signs*. One sign is permitted at the main access to the public road. If there are two access points (not including the emergency vehicle access, if required), a sign may be placed at each entrance. Maximum sign area is limited to sixteen square feet with a maximum height of five feet. Such identifying signs shall be installed with landscaping around the base. All illumination shall be installed as ground lighting to prevent night-time glare.
11. *Permitting*. The applicant shall be responsible for satisfying all review and permitting requirements of other public agencies including but not limited to environmental health and NCDOT driveway permits.
12. *Historic structures*. The proposed use and structural alterations of historic structures listed or eligible to be listed on the National Register of Historic Places shall be of such a nature so as to preserve the historic character of the site and the buildings. The applicant shall demonstrate that the proposed development of the site would have no adverse impact beyond the building except for appropriate parking facilities.

Sec. 62.76. - Rural tourism activities

The purpose of this Special Use Permit is to allow rural tourism activities without overnight accommodations and/or public restaurant (food service) facilities.

Examples of Rural Tourism activities include, but are not limited to:

Ecological Centers
Cycling Tours/Rentals

Canoe/Kayak rentals
Guide or outfitter tours
Archery
Boating
Kids day camps
Artisan studios
Rock climbing
Meeting and conference facilities
Equestrian facilities

Parking: The number of parking spaces as listed in Article V. Paving is not required: however, dust control measures may be required. Off-site parking is not permitted.

Access: Point of ingress and egress to property shall consist of a minimum width eighteen (18) foot wide travelway and shall be located in such a way to minimize traffic hazards, inconvenience, and congestion.

Site plan: Required and shall show:
Dimensions of property
Location, use, and dimensions of all existing and proposed buildings and all outdoor activity areas
Public and private roads accessing the property
Parking areas and number of parking spaces
Sanitary sewer facilities where applicable
Location and heights of all fences, hedges and natural buffers that would serve as buffers to abutting property
Location of all flood zones, watersheds, wetlands, and streams

Other requirements:

1. Where the property adjoins a residential use or residential district, the boundary shall be planted with landscape buffer in accordance with Article V. The type of landscaping will be dependent on the intensity and location of use on property and the acreage and configuration of the lot.
2. Overnight camping is not permitted on grounds.
3. Establishments should be designed to minimize their impact on the agricultural use and nearby uses.
4. All lighting shall be directed inward and downward (e.g. shoe box fixtures) in such a manner so as not to produce glare onto adjacent property and so that the primary cone of illumination does not extend beyond the property lines. Exterior lighting shall be mounted no higher than thirty-five feet above the adjacent ground level.
5. All structures, parking, storage areas, and other uses related to the tourism facility must have a fifty (50) foot buffer from all side property lines or a thirty (30) foot landscaping buffer and must be setback thirty-five (35) feet from the road right-of-way.
6. There shall be a separation of at least two hundred (200) feet between residences on adjoining tracts and any building used for the tourism operation.
7. All on premise signs shall meet the requirements of Article V.
8. Special events may be held six (6) times per year for three consecutive days each without obtaining a Special Event permit. Special events may include but are not limited to, music festivals, shows displaying items for sale such as art or art objects, jewelry, specialized recreation equipment, horse shows, and fishing rodeos. (Adopted 4/10/2006)

Off-premises Signs:

Two (2) off-premises directional signs are allowed when business, attraction, or activity is not located on a US or NC numbered highway, subject to the following regulations:

1. Sign permit is required prior to erecting sign. Written permission of the property owner and copy of sign face is required prior to obtaining a permit.
2. Signs shall be setback at least 10 feet off the right-of-way.
3. There shall be a minimum of 1000 feet between each sign.
4. No sign may be larger than 16 square feet or greater than 6 feet in height.
5. Only non-illuminated freestanding ground signs are allowed.
6. Signs may be two-sided. The sign surface area shall be computed by including the total of all sides designed to communicate information that can be seen at any one time by a person from one vantage point.
7. Signs must be kept in good repair.
8. If business, accommodation, attraction or activity ceases to operate, directional sign(s) shall be removed within 30 days of cessation, by the sign owner or the owner of the property where the sign is located.

Sec. 62.77. - Sales office or model dwelling units for residential development.

In any residential district, the developers, builders or their agents may operate one residential development sales office or model dwelling unit within the development, as a sales office for the specific project under construction, subject to the following restrictions:

(a) The use of the office must be for the initial sale of properties and buildings within the developing subdivision;
(b) The sales office or model dwelling unit must meet all district requirements for lot and setback dimensions;
(c) One nonilluminated sign with a maximum area of 16 square feet is permitted;
(d) One temporary off-street parking space per 300 square feet of office floor area, but in no case shall less than three temporary off-street parking spaces, is provided. The off-street parking surface must be gravel or asphalt;
(e) The model dwelling unit must not be used for any business activity past 9:00 p.m.;
(f) The building used for the sales office must either be constructed for ultimate residential use or be a temporary modular office unit. If a temporary modular office unit is used, the following additional conditions must be met:
    (1) The modular office unit must be placed on a proper foundation, as recommended by the manufacturer;
    (2) The skirting must consist of any weatherproof material providing a visual barrier between the ground and the underside of the modular office unit; and
    (3) The modular office unit must comply with all building code requirements; and
(g) The residential development sales office or model dwelling unit must be discontinued when the specific residential project is sold out and shall thereafter comply with regulations generally applicable within the district.

Sec. 62.78. - Sanitary landfill.

In addition to compliance with the submission requirements and regulations associated with all special uses, the following is required:

(a) Two copies of a completed landfill permit application form from the solid waste management section of the division of health services.
(b) A reclamation plan must be submitted with the application.
(c) The vegetative buffer must be 50 feet in width and screened from any rights-of-way.
(d) The landfill must be set back 100 feet from any right-of-way or adjoining property line.
(e) All applicable state and federal regulations must be met.

Sec. 62.79. - Schools, Academic and Building/Trade

(a) *Parking and Loading*: Two spaces for each regular employee for nonacademic schools. See Article V, Off-Street Parking, for academic school parking requirements.

(b) *Plans Required, Must Show:*
A site plan shall be submitted which demonstrates that the proposed site meets criteria for minimum site characteristics adopted by the N.C. Department of Public Instruction/N.C. Department of Community Colleges (excepting religious institutions). The site plan shall include the following elements in addition to such others as necessary to meet Department of Public Instruction/Community Colleges requirements (excepting religious institutions):

(c) Structures - Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto

(d) Circulation - Proposed points of access and egress and pattern of internal circulation

(e) Parking and Loading - Layout of parking spaces

(f) *Religious School. When located in the Residential Protected (RP) district, religious schools* may be located on the same lot as the primary place of worship associated with the school. Public schools and other types on academic institutions are not allowed in the RP district.

Other Details -

(a) Location and extent of open recreation or training area

(b) Estimated number of students

(c) Subjects to be taught outside of regular classroom facilities (for example, in laboratories, gyms, etc.)

(d) Noise, vibration, glare or any emissions generated by the proposed use shall not be discernible at the lot lines of the lot containing the use.

[*Amended April 17, 2023*]

Sec. 62.80. – Reserved

Sec. 62.81. – Shipping/Storage Container for Non-Residential Outdoor Storage

Shipping/Storage Containers may be used for outdoor storage as follows:

1. Use is accessory to a non-residential principal use. In no situation may these containers be used as a principal use on a property or serve as accessory structures as regulated by this ordinance.
2. Containers must be placed to the side or rear of a principal structure on the property. They may not be placed forward of the existing principal structure.
3. Containers must meet the setbacks of their underlying zoning district, but must be at least ten (10) feet away from any side or rear property lines.
4. The total square footage of the container(s) being used for storage may not exceed 10% of the square footage of the principal structure being served.
5. Containers will not be served with electrical, plumbing, or mechanical connections.
6. Must comply with all regulations under Sec. 62.66 Outdoor Storage, Non-Residential.
7. May not be used with any multi-family or mixed-use developments that include residential options.

[*Amended April 17, 2023*]

Sec. 62.82. - Shooting Range/Shooting Range Complex

1. Design and Construction:
   a. Plans, specifications and construction of a range shall consist of the professional evaluation, guidance and services of professional engineers and architects experienced in range planning and design. The most recent edition of the National Rifle Association Range Source Book: A Guide to Planning & Construction (the source book) may provide technical guidance. The source book may not be used to establish design standards or criteria for a range in lieu of an evaluation by engineers and/or architects.
   b. Ranges used by North Carolina Department of Correction (DOC) personnel shall be approved, operated and inspected according to DOC Safety, Occupational and Environmental Health Policy and Procedure Manual, Section B-2, Firing Range Policy.
   c. Parking areas and access roads shall be located outside of the range area.
2. Buffers (screening):

Buffer areas shall consist primarily of evergreens between the shooting area and all adjacent property. Buffer may be existing or planted and must be maintained in a healthy manner including replacement of dead and/or diseased vegetation.

3. Setbacks:
   a. Ranges are categorized by the type of construction, shooting activity, target, firearms and ammunition to be used on the range. These categories introduce factors which will influence the design, dimensions and/or layout of the facility. A minimum setback is established for high impact uses in *Division VI, Section 63 Setbacks Table*. This setback may be increased according to the type of firearm and ammunition to limit bullet containment to the confines of the range property boundary and recommendation of the engineer or architect designing the range.
4. Shooting Range Complex (Accessory buildings and uses):
   Provided that the shooting range complex is designed and constructed under the guidance of a professional engineer and/or architect as listed in Condition #1, additional buildings and accessory uses may be approved for the areas adjacent to the shooting range as long as these uses are compatible with a shooting range and/or training facility and are developed in a manner consistent with maintaining a safe perimeter around the shooting range. Accessory uses may include sale of ammunition, equipment, classrooms for safety courses and training in firearm techniques.
5. Safety and Security Measures:
   a. The shooting range shall meet all applicable Federal, State and local guidelines governing perimeter security for outdoor shooting ranges.
   b. Security fencing is required to prevent an individual from crossing the property downrange. The perimeter of the firing range shall be posted with signs in highly visible colors at 100-foot intervals that indicate live fire. For example: “No Trespassing – Danger - Shooting Range.”
   c. Safety rules and regulations shall be adopted for each facility by the club, organization or agency responsible for the range
   d. Access roads to the range shall be controlled to prevent unregulated entrance to the shooting area and shall be kept locked except when range is in use.
   e. At least one qualified individual certified for shooting range supervision shall be on the premises when the range is in use.
   f. Weapons and associated ammunition stored at the shooting range shall be stored in a manner that meets Federal, State and local laws.
6. Maintenance:
   a. The operator of a shooting range shall use *Best Management Practices for Lead* at *Outdoor Shooting Ranges*, EPA-902-B-01-001, as amended, to implement an Environmental Stewardship Plan for management of lead shot/bullets.

   Spent cartridge/shell casings shall be picked up before leaving the range.

Sec. 62.83. - Skeet, Trap, and Sporting Clay Range

Minimum Lot Area: 20 Acres

Plans and Requirements:

The owner or operator shall submit plans and documentation that show the following:

a) Names of adjacent property owners and zoning classifications of property,
b) All structures, existing and proposed, on site and all structures within 500 feet of property lines,
c) Parking and observation areas,
d) Existing or proposed buffers,
e) All roadways, existing and proposed,
f) Firing points and direction of fire,
   The distance from firing point in the direction of fire shall be at least 300 yards. A 100-foot natural buffer shall be required along the rear of the site and along both sides. Firing points shall not be less than 500 feet to the nearest residence or a public right of way.
g) Hours of operation
   The use of firearms shall be prohibited between the hours of 10:00 PM and 7:00 AM.
h) An approved Environmental Stewardship Plan shall be submitted with the application,

i) Range boundaries should be properly identified with appropriate warning signs.

Sec. 62.84. - Solar energy facility.

(a) All structures and security fencing must meet a 100-foot front setback measured from the edge of the right-of-way and 50-foot side and rear setbacks.

(b) A landscape buffer/screen along all exterior sides of the security fence must consist of:
   (1) On-site mature vegetation exists at a minimum height of ten feet and depth of 75 feet between the security fence and adjacent property including rights-of-way; or
   (2) A single row of evergreens in combination with mature vegetation, installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years; or
   (3) A double row of off-set evergreens absent mature vegetation, installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years; or
   (4) A berm combined with evergreen vegetation installed at a height of five feet achieving opaqueness and a minimum height of ten feet in five years.

(c) Where visibility of the solar farm is increased due to topography, the landscape buffer/screen must be planted on-site in an area that lessens the view of the solar farm. Where visibility of the solar farm is decreased due to topography, the landscape buffer/screen may be reduced. Both shall be determined by the Community Development Director.

(d) All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic or create a safety hazard.

(e) The applicant must secure all necessary approvals and/or permits from NCDOT for the access points for project entrances prior to issuance of a zoning authorization permit.

(f) All construction parking must be located outside of the rights-of-way.

(g) Erosion control measures must be installed at construction entrances in order to minimize off-site soil damage. Existing grass must be maintained in perpetuity sufficient to prevent erosion.

(h) The applicant must provide written authorization from the local utility company acknowledging and approving connection to the utility company's grid.

(i) A warning sign concerning voltage must be placed at the main gate to include the name of the solar farm operator and a local phone number for the solar farm operator in case of an emergency.

(j) Power transmission lines must be located underground to the extent practical.

(k) A security fence equipped with a gate and a locking mechanism must be installed at a minimum height of eight feet along all exterior sides of the solar farm. Landscape buffer/screens, ground cover, security fences, gates, and warning signs must be maintained in good condition until the solar farm is dismantled and removed from the site.

(l) The zoning authorization permit is subject to revocation if the planning department is not notified when the solar farm company holding the permit sells or otherwise transfers its interest to another entity or individual.

(m) Removal of solar farm equipment and site restoration:
   (1) The application must include decommissioning plans that describe the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored.
   (2) Following a continuous six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the solar farm. Decommissioning includes removal of solar panels, buildings, cabling, electrical components, and any other associated facilities below grade as described in the approved decommissioning plan.

(3) Prior to the issuance of a zoning compliance certificate, the applicant must provide the county with a performance guarantee as provided in subsection (5) below. For the first ten years of the solar facility's life, the amount of the guarantee shall be 1.25 times the estimated decommissioning cost minus 50 percent the salvageable value, or $75,000.00, whichever is greater. Estimates for decommissioning the site and salvage value shall be determined by a North Carolina licensed engineer or a licensed contractor. It is the responsibility of the applicant to provide the county with the certified cost estimate.

(4) An updated decommissioning plan providing decommissioning costs and salvageable values is required at the ten-year mark and every five years thereafter. A new performance guarantee in the amount of 1.25 times the updated decommissioning cost minus 50 percent of the salvageable value, or $75,000.00, whichever is greater is required.

(5) The following types of performance guarantees are permitted:

a. A surety or performance bond that renews automatically, includes a minimum 60-day notice to the county prior to cancellation, is approved by the Community Development Director, and is from a company on the U.S. Department of Treasury's listing of certified companies. A bond certificate must be submitted to the planning department each year verifying the bond has been properly renewed.

b. A certified check deposited with the county finance director, as escrow agent, who will deposit the check in an interest-bearing account of the county, with all interest accruing to the applicant. Funds deposited with the county finance director will be returned when the solar farm is decommissioned and any necessary site restoration is completed.

c. A no-contest irrevocable bank letter of credit from a banking corporation licensed to do business in the state. The terms of the letter must include the absolute right of the county finance director to withdraw funds from the bank upon certification by the county manager that the terms and conditions of the performance guarantee have been breached. The letter of credit must be valid up to 12 months from the date the performance guarantee was approved.

(6) The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.

(7) The landowner or tenant must notify the county when the site is abandoned.

Sec.62.85. - Special event permit (9/09/1999, Amended 4/10/2006, 8/16/2021)

a. The purpose of this permit will be to authorize a specific use for a defined period of time; and to coordinate health, traffic, and other code specific inspections necessary to the safe and healthful operation of the event.

b. Application for an event permit shall be made at least 5 working days prior to the start of the event.

c. An event permit shall be obtained for non-permanent facilities and activities that will have a duration of one or more days, but not more than (7) days. Examples of this type of event are: a tent revival, special event fund raisers, a rodeo, an air show, or other similar activities conducted on a short-term basis and not otherwise addressed by this ordinance.

d. The event permit shall not be issued until evidence is shown that the following conditions have been or will be complied with:

1. Ample off-street parking shall be provided for the event, in addition to required parking for the use or uses located at the event site.
2. The owner of the property where the event is to be held, or his agent, shall provide to the Planning Department written authorization that the event may take place on the property.
3. An event held outside of a building and within five hundred (500) feet of any residence shall cease operation by 10:30 PM.

4. Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the event.
5. Licenses and/or permits required by other agencies shall be obtained prior to the issuance of the event permit.
6. Maximum Number of Permits: No more than four (4) permits may be issued on the same property in any one calendar year in RA, RP, RM and NC.

Sec. 62.86. - Stand-Alone storage unit (residential)

Intent. Permitting of storage structures that do not otherwise qualify as accessory structures on rural residential/agricultural parcels of land. These structures are intended for the storage of equipment and materials that are incidental to the care and maintenance of the land and features of the parcel on which the storage structure is located.

Minimum lot size. Three (3) Acres

a. Stand-alone storage units may be constructed on-site or acquired as a pre-fabricated structure.
b. These structures shall maintain the standard residential structure setbacks for the Residential Agricultural (RA) district.
c. All such units shall be evaluated and permitted by the planning and zoning department.
d. Any storage unit measuring greater than twelve (12) feet on any horizontal dimension will require a building permit.
e. Stand-alone storage units may only be one story in height.
f. The maximum square footage of any stand-alone storage unit is 400.
g. Only one stand-alone storage unit is allowed on a parcel without the establishment of a primary residence or qualification as a bona fide farm.
h. These structures are eligible for electrical service with the necessary permit but are not eligible for other utilities and services, including: water, septic/sewer, mechanical and HVAC.

Sec. 62.87. - Turkey Shoots

This Special Use Permit is applicable to turkey shoots that are “for profit” operations or turkey shoots in use year-round.

Lot Size: There is no minimum or maximum lot size. Lot shall be of sufficient size to accommodate the staging area, shooting range, parking lot, spectator areas, structures, setback/buffer areas and septic systems (if applicable).

Setbacks: No turkey shoot shall be allowed within a required setback.

All turkey shoots shall be established with the line of fire perpendicular to and away from a road right-of-way. The backstop or target area shall be located not less than 500 feet from the road right-of-way. All backstops shall be constructed a minimum of 500 feet from any residence located to the rear and/or side of the backstop.

Sites adjacent to more than one road right-of-way must designate the higher classified road as the front, and set the line of fire perpendicular thereto. Any resultant line of fire parallel to a road must be a minimum distance of 200 feet from and parallel to the road right-of-way.

Operations: Backstops shall be constructed of a material that will allow the shot to penetrate and not pass through. It shall be of a minimum thickness of 2 feet and maintained at a height of 4 feet above the target.

The firearms used in turkey shoots shall be limited to shotguns firing shot no larger than number eight (#8). No firearms may be used which have been altered from manufacturer's specifications.

Hours of operation shall be between the hours of 7:00 a.m. and 10:00 p.m.
Provisions for sanitation and refuse disposal must be made in accordance with health standards.

Buffer Required:
A type I landscape buffer along all property lines shall be provided. The buffer shall be of sufficient height and density to screen from view the facility.

Site Plans Required: Site Plans drawn to scale shall be submitted at the time of application for the special use permit and shall include:

Dimensions of property and lot size;
Location (including setbacks), use and dimensions of all existing and proposed buildings;
Location (including setbacks), use and dimensions of all shooting stations, spectator areas and the location of all backstops (i.e. location and number of all targets, etc.);
Public and private roads accessing the property;
All required parking spaces;
Sanitary sewer facilities where applicable;
Location and heights of all fences, vegetative buffers and screening;
Location of all flood zones, watersheds, wetlands, and streams;
Location of posted safety rules; and
Other site-specific information as requested by staff

Parking: 2 spaces for each backstop (target station).

Signs: 1 principal use identification sign not to exceed 25 square feet in area per sign face. The sign must be setback 10 feet from the front road right-of-way. The sign may be illuminated.

Other Requirements:

a) The property where the turkey shoot is located shall be fenced, posted or otherwise controlled to insure the safety of contestants, spectators and the public at large.
b) No outdoor storage is allowed.
c) Public restroom facility shall be provided on site as approved by the Environmental Health Division of the Rockingham County Department of Health and the Building Inspectors. If the approved restroom facility is portable, it shall be maintained by a sanitation disposal service.
d) Retail sales conducted on the property shall be accessory and incidental to the turkey shoot and limited to event related supplies for participants of the turkey shoot.
e) Food and beverage sales must meet Environmental Health regulations.
f) No alcoholic beverages shall be sold or allowed on the premises.
g) Lighting shall be pointed in a downward and inward direction, away from adjoining properties. Full cut-off or fully shielded light fixtures shall be used where feasible.
h) PA Systems and/or amplified sounds are not permitted.
i) The entrance to the facility shall be permitted by the North Carolina Department of Transportation. A copy of the driveway permit shall be provided to the County.
j) Noise levels measured at the property line where the facility is maintained or, in the case of leased land at the property line of any leased parcel, shall not exceed the limits as provided in the county noise ordinance.
k) Any requirement of this Special Use Permit may be amended by the Planning Board upon determination that the change or changes in combination with other elements of the site design shall provide adequate protection to adjoining properties.

Note: A property's location within a watershed or flood prone area may affect the allowed uses, density, lot size, and built-upon limits. Additional regulations, certificates and permitting requirements may also be imposed.

Sec. 62.88. - Wireless Telecommunications Facilities
(Amended 7/11/2005)

a) Exceptions

The following are exempt from the Special Use Permit requirements:

i) Wireless Telecommunications Facilities used exclusively for the County's fire and police operations.

ii) Towers located on property owned, leased, or otherwise controlled by Rockingham County provided the Wireless Telecommunications Facility and license or lease, if applicable, authorizing such Wireless Telecommunications Facility has been approved by the Rockingham County Commissioners after a public hearing and adjoining owner's notification.

iii) Installation of antenna (co-locations) meeting Administrative Approval Criteria. The regulations for co-locations are found below.

iv) Wireless Telecommunications Facilities existing on or before the effective date of this amendment to the UDO shall be allowed to continue as they presently exist. **(NOTE:** Any modification of an existing Wireless Telecommunications Facility must comply with the current standards, including obtaining a Special Use Permit and payment of any applicable fees for such modification.)

v) A tower, antenna, or other communication structure used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio, and other similar non-commercial telecommunications facilities 90 feet or lower in height are exempt from the Special Use Permit requirements, except for meeting setback requirements. Towers and support structures shall meet the setback requirements for the zoning district in which the proposed facility shall be located, or 110% of the tower height, whichever is greater.

62.88.01. - Administrative Approval for Co-locations on Existing Wireless Telecommunications Facilities and Other Structures.

The Community Development Director, or his designee, is authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting, or revoking an Administrative Approval for Co-locations on Wireless Telecommunications Facilities and other structures.

Special Use Permits are required for new towers (see below).

Colocations qualify for Administrative Approval if the Applicant meets one of these three (3) criteria:

1. Installing an antenna on an existing non-residential structure, other than a tower (including, but not limited to a building, rooftop, sign, light pole, water tower, utility pole, or other free-standing, non-residential structure) that is less than 50 feet in height so long as such addition does not add more than 10 feet to the height of the existing structure;
2. Installing an antenna on an existing non-residential structure other than a tower (including, but not limited to a building, rooftop, sign, light pole, water tower, or other free-standing, non-residential structure) that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure; or
3. Installing an antenna on an existing tower of any height, including a tower existing prior to this Ordinance, and further, including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of the existing tower.

Administrative Approval for Co-locations on Wireless Telecommunications Facilities or any modification of such co-location shall comply with the requirements set forth below, the requirements of other sections of the UDO, and all other applicable state, federal, and local regulations.

1. The Applicant must obtain all required certifications from a licensed professional engineer. An application for an Administrative Approval shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. (See the fee schedule for application fee information.)

2. Antennae located on property owned, leased, or otherwise controlled by Rockingham County shall be exempt from the requirements of the Administrative Approval for the co-locations section of the UDO, provided a license or lease authorizing such antenna has been approved by the Rockingham County Commissioners.
3. All utilities at a Wireless Telecommunications Facilities site shall comply with all laws, including specifically, but not limited to, the National Electrical Safety Code, the National Electrical Code, Electronic Industry Association/Telecommunications Industry Association (EIA/TIA), and (Building Occupancy Code or BOCO) where appropriate.

Administrative Review Process:

1. No proposed antenna(e) shall be installed or constructed until the application has been approved by the County Planning and Building Inspections Department, the Administrative Approval has been granted, and all applicable permits have been issued.
2. A sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities is required. It shall contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency phone number(s). The sign shall be placed on the equipment shelter or cabinet of the Applicant, be visible from the access point of the site, and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule, or regulation. No other signage, including advertising, shall be permitted, unless required by applicable law, rule, or regulation.

The Applicant shall provide documentation containing:

1. The name, address, and phone number of the person responsible for preparing the application;
2. The name, address, and phone number of the owner of the lot containing the tower, service provider or operator, the tower operator, and the actual Applicant;
3. The postal address, latitude and longitude, zoning district designation, and tax map parcel number of the tower lot;
4. The location, size, and height of the tower, all proposed and existing antennae, and all appurtenant structures;
5. The number, type, and design of the antenna(e) proposed as well as the make, model, and manufacturer of the antenna(e);
6. The frequency, modulation, and class of service of radio or other transmitting equipment;
7. The actual intended transmission and the maximum effective radiated power of the antenna(e).
8. A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, and color.
9. Certification that the Non-Ionizing Electromagnetic Radiation (NIER) levels at the proposed site are within the threshold levels adopted by the FCC. Calculations and measurements of NIER will not be required for any new source of NIER if it is determined by FCC definition to be categorically excluded from having to determine compliance with RF exposure standards unless the NIER emissions from the new source, when added to existing ambient NIER sources, will exceed the levels set forth in the above standard.
10. Certification that the proposed antenna(e) will not cause interference with other telecommunications devices.
11. A copy of the FCC license applicable for the intended use of the proposed antenna.
12. Proof of the intent of the existing tower owner to permit the Applicant's use as specified in the application.
13. Certification that the proposed antenna will be constructed to meet all laws and requirements for loads, such as wind and ice loads.
14. Certification that the proposed antenna will be effectively grounded so as to protect persons and property and will be installed with appropriate surge protectors.
15. If the antenna will add height to the existing tower or structure, as specified in Section A, the following shall be provided:

a. An FAA letter that states whether the additional height of the existing antennae requires lighting under FAA Regulation Part 77.
b. Justification of the total height of the structure, tower, and antenna.

Variance: Applicants may request a waiver of provisions of this section of the Ordinance as a variance.

(7/11/2005, 08/16/2021)

Sec. 62.88.02. - New wireless telecommunication tower requirements.

A. Pre-Application Meeting:

There shall be a pre-application meeting attended by the applicant, consultant, and/or County staff prior to the submittal of any application. The purpose of this meeting shall be to address issues which will help expedite the review and permitting process and address any concerns regarding the site or the facility and the treatment of such. A site visit may also be required.

B. Policy and Requirements:

All Applicants for a Special Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth herein and only complete applications will be accepted by the County for review.

1. The Planning Board may, at its discretion, delegate or designate other official agencies of the County and/or seek outside assistance to accept, review, analyze, evaluate and make recommendations to the Planning Board with respect to the granting or not granting, or revoking special use permits for Wireless Telecommunications Facilities. The Applicant shall pay any extra fees necessary for outside assistance.
2. All Wireless Telecommunications Facilities must conform to local, state, and federal environmental laws, standards, and codes. All utilities at a Wireless Telecommunications Facilities site shall be in compliance with all laws, including but not limited to the National Electrical Safety Code, the National Electrical Code, Electronic Industry Association/Telecommunications Industry Association (EIA/TIA) and Building Occupancy Code (BOCO) where appropriate.
3. Applicants shall agree to lease space at commercially reasonable rates and shall also make towers available for use by County Emergency Service agencies at no charge to the County.
4. Placement of antennae on existing towers or other structures shall be preferred by the County, as opposed to the construction of a new tower.
5. Applicants shall submit 2 (or the number designated at the pre-application meeting) completed applications for a Special Use Permit in 3-ring binders. Seventeen copies of the following information must also be submitted: boundary survey, site plan, compound plan, tower profile, visual impact assessments, propagation studies, justification for why a co-location is not practical, and an explanation why a higher priority site was not selected.
6. No Wireless Telecommunications Facility shall be installed or constructed until the application has been reviewed and approved by the Planning Board, and the Special Use Permit, together with all applicable permits, has been issued.
7. The Applicant must begin construction on the new Wireless Telecommunications Facility within one (1) year of the granting of a Special Use Permit or the Special Use permit shall become invalid (See Chapter II Article XVIII – Vested Rights pursuant to N.C.G.S. 153A-344.1).
8. An application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant must obtain all required certifications from a licensed professional engineer. The landowner, if different from the Applicant, shall also sign the application. Any false or misleading statement in the application may subject the Applicant to denial of the application without further consideration or opportunity for correction. (See Section V for application fee information.)

C. Site Plan Requirements:

The Applicant shall provide a site plan containing:

1. The name, address, and phone number of the person responsible for preparing the application;

2. The name, address, and phone number of the property owner, service provider or operator, and the actual Applicant;
3. The postal address, zoning district designation, latitude and longitude, and tax parcel identification number of the property;
4. A vicinity sketch, north arrow, date of plan, scale, name(s) and seal(s) of all persons preparing the plan;
5. The size of the property stated in square feet (or acreage) with lot line dimensions, the location of all lot lines and setback distances and all natural features such as streams, ponds, wetlands, etc.;
6. The location of all structures (including residential structures) on the property (which is the subject of the application);
7. Access to the site, with location and width of existing and proposed driveways;
8. The location, size, and height of all proposed and existing antennae and all appurtenant structures;
9. The type, locations, and dimensions of all proposed and existing landscaping, and fencing [See Section IIIE(1) and E(5).].

D. Written Documentation Required:

The Applicant shall provide the following written documentation:

1. A copy of the lease agreement (or lease option) signed by the property owners if part or all of the property for the Wireless Telecommunications Facility is to be leased. The lease agreement (or lease option) must include liability insurance in accordance with the requirements specified in Section IX.
2. A copy of the property deed.
3. A demonstration of the need for the Wireless Telecommunications Facility to provide service primarily within the County. Such documentation shall include, but may not be limited to, propagation studies of the proposed site and all existing, adjoining, and proposed sites.
4. An explanation as to why a higher priority site was not selected (See Section III A).
5. Justification for why a co-location that meets Administrative Approval criteria is impractical and includes:

a) Demonstrations of the Applicant's meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the County.

b) An inventory of existing towers and other functionally suitable structures within four (4) miles of the location of any proposed new tower and a report that demonstrates conclusively why an existing tower or other suitable structure cannot be used.

6. Justification of the total height of any tower, facility and/or antenna, and the basis therefore.
7. Documentation showing that the tower owner has a signed agreement committing a commercial service provider to occupy space on the tower at the time of completion of construction on the new Wireless Telecommunications Facility.
8. The number, type, and design of the tower(s) and antenna(e) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users.
9. The make(s), model(s), and manufacturer(s) of the tower and antenna(e).
10. A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color, and lighting.
11. The frequency, modulation, and class of service of radio or other transmitting equipment.
12. The actual intended transmission and the maximum effective radiated power of the antenna(e).
13. The direction of maximum lobes and associated radiation of the antenna(e).
14. Certification that the Non-Ionizing Electromagnetic Radiation (NIER) levels at the proposed site are within the threshold levels adopted by the FCC. Calculations and measurements of NIER will not be required for any new source of NIER if it is determined by FCC definition to be categorically excluded

from having to determine compliance with RF exposure standards. If the NIER emissions from the new source, when added to existing ambient NIER sources, would exceed the levels set forth in the above standard, then calculations and measurements will be required.

15. Certification that the proposed antenna(e) will not cause interference with other telecommunications devices.

16. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facility.

17. Certification that a topographic and geomorphologic study and analysis has been conducted, and by taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facility on the proposed site.

18. A copy of each of the policies or certificates representing insurance in the required amounts.

19. Certification that the Wireless Telecommunication Facility, foundation, and attachments are designed and will be constructed to meet all laws and requirements for loads, including wind and ice loads.

20. Certification that the Wireless Telecommunications Facility will be effectively grounded so as to protect persons and property and installed with appropriate surge protectors.

21. Certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.

E. Visual Impact Assessment Requirements:

The need for and nature of a visual impact assessment shall be determined at the pre-application meeting. The assessment may include:

1. A "Zone of Visibility Map" which may be provided in order to determine locations from which the tower may be seen.

2. Pictorial representations (which may include visual simulations) of "before and after" views from key viewpoints both inside and outside of the County as may be appropriate, including but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers, or residents. Guidance may be provided, concerning the appropriate key viewpoints at the pre-application meeting.

3. An assessment of the visual impact of the tower base, guy wires, and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

4. The Applicant may, prior to the public hearing on the application, be required to hold a "balloon test" as part of the required materials constituting a completed application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a six (6) foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the County. The Applicant shall inform the County, in writing, of the dates and times of the test, at least fourteen (14) days in advance. Notice of the balloon test shall be posted in a prominent place on the property (determined at the pre-application meeting) at least ten (10) days prior to the balloon test. The balloon test shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but to prevent delays in the processing of the application, in case of poor weather on the initial date, the secondary date may be on a weekday.

Section III. Location of Wireless Telecommunications Facilities.

Wireless Telecommunications Facilities may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a Wireless Telecommunications Facility on such lot. Wireless Telecommunications Facilities that are

constructed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

A. Location Priority:

Wireless Telecommunications Facilities shall be located, sited, and erected in accordance with the following priorities, one (1) being the highest priority and five (5) being the lowest priority :

1) On existing towers or other structures meeting the criteria for Administrative Approval;
2) On County-owned properties;
3) On properties in areas zoned for Light or Heavy Industrial use (Zoned HI and LI);
4) On properties in areas zoned for Commercial use (Zoned HC and OI); or
5) On properties in areas zoned for Residential Agricultural use (Zoned RA).

B. Shared Use:

The application shall contain a commitment to construct the tower to accommodate at least five (5) additional commercial applications or service providers, assuming antenna arrays equivalent to those of the Applicant, and located as close to the Applicant's antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared use of the tower is not technologically feasible, based upon:

1. The foreseeable number of FCC licenses available for the area;
2. The type of Wireless Telecommunications Facility site and structure proposed;
3. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
4. Available space on existing and approved towers.

C. Minimum Lot Size or Leased Area:

If the applicant is the owner of the property, the minimum lot size or leased area must equal the Fall Zone or the minimum lot size of the underlying zoning district, whichever is greater.

D. Setbacks:

1. Towers must be set back a distance equal to the Fall Zone of the tower from any residential structure; public and/or private road rights-of-way (excluding the tower access road); property lines; and/or recorded easements or rights-of-way. Guys and accessory facility support structures must satisfy the underlying zoning district setback requirements.

2. Monopole towers may have a 20% reduction in the required setbacks. In no case shall the setbacks be less than those required for the underlying zoning district.

E. Site Design Requirements:

1. Landscaping: Wireless Telecommunications Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Wireless Telecommunications Facility from adjacent property. The buffer shall consist of a Type I landscape buffer, either existing or planted, outside the perimeter of the compound as described in Chapter II Article XVII, unless the visual impact of the facility would be minimal as determined by the Planning Department. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

2. Access: An adequate turnaround and parking space(s) shall be included within the area leased or owned by the applicant upon which the Wireless Telecommunication Facility is sited. The applicant shall provide for and maintain emergency and service access in accordance with private road standards set forth in Chapter 3, Article 6, Section 5 of the UDO. Road construction shall, at all times, minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure

minimal visual disturbance and reduce soil erosion. Maximum use of existing roads, whether public or private, shall be made to the extent possible.

3. Lighting: Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by law. The applicant shall provide an FAA letter or TOWAIR report to determine whether the tower or existing structure intended to support Wireless Facilities requires lighting under FAA Regulation Part 77. If lighting is required, the Applicant shall provide a detailed plan for sufficient lighting having as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

4. Appearance: Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the County. As appropriate, towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance and any conditions of the Special Use Permit.

5. Fencing: The Wireless Telecommunications Tower base, guy wires, and all accessory facility support structures shall be located behind eight (8) foot fence(s) and secured to prevent unauthorized access.

F. Modification of Site:

The holder of a Special Use Permit shall notify the Planning Department of any proposed modification of a Wireless Telecommunication Facility. The holder shall apply for a new Special Use Permit or a Site Plan Amendment, if applicable, to modify, relocate, or rebuild a Wireless Telecommunications Facility prior to such action. Failure to do so will constitute grounds for revoking the Special Use Permit. In the case of modification and/or rebuilding, a Special Use site plan amendment may be required. Relocation will require a Special Use Permit for a new Wireless Telecommunications Facility.

Section IV. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet, to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall: contain the name(s) of the owner(s) and operator(s) of the antenna(e) and emergency phone number(s); be placed on the equipment shelter or cabinet of the Applicant; be visible from the access point of the site; and identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule, or regulation. No other signage, including advertising, shall be permitted, unless required by applicable law, rule, or regulation.

Section V. Application Fee.

The application fees for new towers and Special Use Permits may be found on the fee schedule for the County. Modifications to the Wireless Telecommunications Facility, except as listed in Section I A-C, will require payment of Special Use Permit and new tower fees.

Section VI. Public Hearing Requirements.

All completed applications for Special Use Permits for Wireless Telecommunications Facilities will be subject to a public hearing held before the Planning Board. The County, at any stage prior to issuing a Special Use Permit, may require such additional information as is deemed reasonable and necessary.

Section VII. Performance and Tower Removal Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facility's property site shall, at its cost and expense, be required, jointly if appropriate, to execute and file with the County a

bond or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least $30,000. The bond shall have such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Special Use Permit. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit, and if the Special Use Permit is revoked, the bond or security shall remain in full force and effect until the tower has been removed and the site restored to the satisfaction of the Planning Department. In any event the security shall remain in 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 original Special Use Permit. If the Tower Owner defaults on payment or abandonment on County owned or controlled property, the County, at its option, can take control and ownership of the facility.

Section VIII. Annual NIER Certification.

The holder of the Special Use Permit shall, annually from the date of Planning Board approval, certify by letter and a copy of the report from the carrier or government agency to the County that NIER levels at the site are within the threshold levels adopted by the FCC.

Section IX. Liability Insurance.

1. A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit, and, if the Special Use Permit is revoked, the holder of the Special Use Permit shall maintain the stated coverage until the tower has been removed and the site restored to the satisfaction of the Planning Department in amounts as set forth below:

a) Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

b) Automobile Coverage: $100,000 per occurrence/ $300,000 aggregate;

c) Workers Compensation and Disability: Statutory amounts.

2. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

3. The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

Section X. Removal of Wireless Telecommunications Facilities.

A. Notice required when taking facility out of service:

Notice shall be provided to the Planning Director, or his designee, within thirty days when any Wireless Telecommunications tower is no longer used for transmission or relay purposes.

B. Abandonment or Disrepair:

The County shall require the removal of Wireless Telecommunications Facilities when:

1. Wireless Telecommunications Facilities with a Special Use Permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a three hundred-sixty five (365) day period, except for periods caused by Acts of God, in which case, repair, or removal shall commence within 90 days and be completed within a reasonable time.

2. A permitted Wireless Telecommunications Facility falls into such a state of disrepair that it creates a health or safety hazard.

C. Failure to Remove:

If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the holder of the Special Use Permit has received notice, then the County may order officials or representatives of the County (or

hired persons) to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

Section XI. Variance Requests.
Applicants may request a waiver of provisions of this Special Use Permit as a variance which will be subject to requirements specified in Chapter II Article XIV.

Sec. 62.89. - Sec. 62.90. - Reserved

DIVISION 3. – HIGH IMPACT USES

Sec. 63.01. - Intent.

(a) The intent of high impact standards is to mitigate the impact of uses which by their nature produce objectionable levels of noise, odors, vibrations, fumes, light, smoke, traffic and/or other impacts upon the lands adjacent to them.

(b) Established. The following uses are considered high impact uses. Each use is grouped into categories based on the projected impact to the surrounding area.

CLASS	USE
Class I	1. Airstrips 2. Concrete suppliers (ready-mix)
Class II	1. Chemical manufacturing and storage 2. Cement Manufacturers 3. Sawmills 4. Bulk Storage Facility of Flammables- Propane, Gasoline, Fuel Oil and Natural Gas 5. Scrap Metal Salvage Yards, Junkyards 6. Commercial Livestock Auction 7. Shooting Range (Indoor Facilities)/Shooting Range Complex (Indoor Facilities)
Class III	1. Commercial Incinerators 2. Local Solid Waste Management Facilities/Landfills 3. Chip Mills 4. Airports 5. Shooting Range (Outdoor Facilities)/Shooting Range Complex (Outdoor Facilities)
Class IV	1. Asphalt Plants 2. Hazardous Waste Facilities 3. Slaughtering and Processing Plants 4. Pulp and Paper Mills 5. Motor Sports Activities (i.e. racetracks and dragstrips)
Class V	1. Explosives Manufacturing, Storage and Wholesale 2. Regional Solid Waste Management Facilities/Landfills-Privately Owned 3. Mining, Extraction Operations and Quarries (including sand, gravel and clay pits)

[Amended November 15, 2021]

(c) Exempt Uses. The following uses are exempt from High Impact regulations:

a. Agricultural Chemical Storage Facilities and/or Buildings regulated by the NC Department of Agriculture pursuant to the NC Best Management Practices (BMP) and Integrated Pest Management (IPM) programs.

b. Rockingham County (Shiloh) Airport operations, including air space and landing flight patterns, as regulated by the Airport Hazard Ordinance.

c. Portable sawmills as defined herein.

d. The storage of less than 25,000 gallons of flammable or combustible liquids or gases at filling stations or convenience stores solely for retail distribution to individual customers.

Sec. 63.02. - Standards for High Impact Uses

(a) Stream Protection

All High Impact Uses must be separated from perennial streams by a minimum distance of 100'.

(b) Lighting

All lighting shall be pointed downward with the primary cone of illumination being entirely contained on the subject property. Exterior lighting fixtures shall be overhead full cut-off fixtures.

(c) Noise Mitigation

The Planning Staff, Planning Board or Commissioners may request that a Noise Mitigation Plan (NMP) be submitted as part of the application process. The NMP shall be designed and sealed by a N.C. Design Professional. The NMP shall also address traffic noise within the site in regard to: vehicular speed; vehicular compliance with N.C. Muffler Laws and Vehicle Manufacturer's Specifications; Jake brake usage; and regular vehicle use within the site. The Plan does not need to address emergency warning devices and lawn care equipment used during daylight hours.

(d) Separation From Protected Facilities

The operational extent of High Impact Uses must be separated from the property line and or road right of way of properties with protected facilities according to the Setbacks Table below.

For purposes of high impact uses, the following shall be considered "protected facilities:"

(1) An educational facility
(2) A North Carolina licensed child care facility
(3) A North Carolina licensed assisted living facility
(4) A North Carolina licensed nursing home
(5) A public or privately owned hospital
(6) A medical center
(7) A church or place of worship
(8) A dwelling unit (single family or multi-family)

Also included in the setback requirement are permanent accessory structures and areas that are part of the protected facility (i.e outdoor play yards, classrooms, gymnasiums).

Setbacks Table

Class [See Section 63-	**Operations Area Setback from Property Line and/or Road Right-of-Way**	**Operations Area Setback from Protected Facility**
Class I	75'	250'
Class II	100'	500'
Class III	200'	1000'
Class IV	300'	1500'
Class V	500'	3000'

ARTICLE VI. – NONCONFORMANCES

Purpose: If, within the districts established by this ordinance, or by amendments that may later be adopted, there exist lots, structures, and use of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance, it is the intent of this ordinance to permit these nonconformances to continue until they are removed (except signs, which are provided for in Article XII, Section 12-13, Nonconforming Signs), but not to encourage their continuance. Such nonconformances are declared by this ordinance to be incompatible with permitted uses in the districts in which they are located.

It is further the intent of this ordinance that nonconformances shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures, or uses prohibited elsewhere in the same district.

Sec. 71.01. - Nonconforming Lots of Record

In any district which permits residential uses, a single-family house may be constructed by right on any lot made non-conforming by this ordinance as long as:

a) approval is granted by the Rockingham County Health Department and
b) the house and customary accessory buildings do not encroach into required front, rear and side yard setbacks. If a proposed residence on a nonconforming lot is approved by the Health Department but would encroach into required setbacks, a variance shall be sought from the Board of Adjustment.

Wherever two or more nonconforming lots in single ownership with continuous frontage exist, residential structures may be erected on each lot if all setback requirements can be met. If all setbacks cannot be met, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance. No portion of the parcel shall be used or sold which does not meet the dimensional requirements of this Ordinance.

Sec. 71.02. - Nonconforming Uses of Open Land

This category of nonconformances consists of lots used for storage yards, used car lots, auto wrecking, junk yards, golf driving ranges, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located.

(a) Junkyards that become nonconforming uses by adoption of this ordinance (3/17/1988) must be cleared away within three years after the date of adoption, or the owner shall seek a rezoning which would render the junkyard no longer nonconforming.
(b) Junkyards that, after the date of adoption of this ordinance (3/17/1988), are located in zones where such uses are permitted must within 3 years after adoption be brought into conformity with the requirements for junkyards set forth in the special use provisions of this ordinance.
(c) When a nonconforming open use of land has been changed to conforming use, it shall not thereafter be used for any nonconforming use.
(d) Nonconforming open uses of land shall not be changed to any but conforming uses.
(e) A nonconforming open use of land shall not be enlarged to cover more than was occupied by that use when it became nonconforming.
(f) When any nonconforming open use of land is discontinued for a period of ninety (90) days any future use of the land shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

Sec. 71.03. - Nonconforming Uses of Structures

This category of nonconformances consists of structures used, at the time of passage of this ordinance, for purposes not permitted in the district in which they are located.

(a) A nonconforming use of a structure may be changed to a conforming use.
(b) A nonconforming use of a structure shall not be changed to another nonconforming use.

(c) When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
(d) Normal maintenance and repair of a building occupied by a nonconforming use is permitted and encouraged provided it does not extend the nonconforming use.
(e) A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure, which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, except those required by law or ordinance or ordered by the Zoning Administrator to secure the safety of the structure.
(f) When any nonconforming use of a structure is discontinued for a period of one year, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

Sec. 71.04. - Nonconforming Structures

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

(a) No structure may be enlarged or altered in a way that increases its nonconformity.
(b) Normal maintenance and repair of a nonconforming structure is permitted and encouraged provided it does not extend the nonconformity.
(c) Should such a structure be moved for any reason for any distance whatever it shall hereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 71.05. - Repairs and Maintenance

On any structure on a nonconforming lot, a structure containing a nonconforming use, or a nonconforming structure, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding fifty percent (50%) of the current replacement value of the buildings, provided that the cubical content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Buildings or structures other than single-family houses that are destroyed by any means to an extent of more than fifty (50) percent of replacement cost or bulk, exclusive of foundations and land value, shall not be reconstructed except in conformity with the provisions of this ordinance. Nonconforming single-family houses that are damaged or destroyed may be rebuilt on the same lot as long as the amount of nonconformity is not increased.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any county official charged with protecting the public safety, upon order of such official.

Sec. 71.06. - Nonconformances Created by Changes in Zoning Boundaries or Regulations

Any nonconformances created by a change in district boundaries or ordinance regulations after the date of passage of this ordinance shall also be governed by the provisions of this Article.

Sec. 71.07. - Special Uses are Conforming

Any use for which a Special Use permit is issued, as provided in this ordinance, shall without further action be deemed a conforming use unless otherwise provided in this ordinance or otherwise provided as a condition of issuance of such permit. Any extension by or addition to such use shall be subject to all requirements of this ordinance.

DESTINATION BY DESIGN

PLANNING | ENGINEERING | COMMUNICATIONS