



CODE OF ORDINANCES

EDGECOMBE COUNTY

NORTH CAROLINA

Codified through

Ordinance of August 6, 2007.

Supplement No. 2



**CODE OF ORDINANCES
EDGECOMBE COUNTY
NORTH CAROLINA**

Adopted: September 13, 2004
Effective: September 13, 2004

Published by Order of the Board of Commissioners

M	MUNICIPAL CODE CORPORATION
CC	Tallahassee, Florida 2004

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OF
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Clerk to the Board

PREFACE

This Code constitutes a codification of the general and permanent ordinances of Edgecombe County, North Carolina.

Source materials used in the preparation of the Code were the ordinances adopted by the board of commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their



proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
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The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.



Acknowledgments

This publication was under the direct supervision of Jan Shekitka, Senior Code Attorney, and Robert MacNaughton, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Lorenzo Carmon, County Manager, Mr. Z. Creighton Brinson, County Attorney and Ms. Carolyn Hedgepeth, Clerk to the Board of Commissioners for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the County of Edgecombe, North Carolina. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the County of Edgecombe, North Carolina.

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ADOPTING ORDINANCE

ORDINANCE NO. 04-0913-1

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES FOR EDGECOMBE COUNTY, NORTH CAROLINA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE EDGECOMBE COUNTY BOARD OF COMMISSIONERS:

Section 1. The Code entitled "Code of Ordinances, Edgecombe County, North Carolina," of 2004 published by Municipal Code Corporation of Tallahassee, Florida, consisting of Chapters 1 through 26 and Appendices A, B, and C, each inclusive, an official copy of which is on file in the Office of the Clerk to the Board of County Commissioners be and the same is hereby adopted as amended in accordance with the proposed amendments attached hereto and made a part hereof.

Section 2. All ordinances of a general and permanent nature enacted on or before January 5, 2004, and not included in the Code or recognized and continued in force by reference therein, are repealed.



Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 30 days or by both such fine and imprisonment. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the County may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the Board of Commissioners to make the same a part of the Code shall be deemed to be incorporated in the Code hereby adopted, so that reference to the Code includes the additions and amendments.

Section 6. Ordinance adopted after January 5, 2004, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This Ordinance shall be effective immediately upon its adoption.

Passed and adopted by the Board of Commissioners of Edgecombe County this the 13th day of September, 2004.

Introduced by:	<u>/s/ Jonathan Felton</u> Commissioner
Approved as to legal form:	Taylor, Brinson & DeLoatch County Attorneys
	By: <u>/s/ Z. Creighton</u> <u>Brinson</u>
	EDGECOMBE COUNTY BOARD OF COUNTY COMMISSIONERS
	By: <u>/s/ Charlie R. Harrell</u>
	Chairman

ATTEST:



Carolyn S. Hedgepeth

Clerk to the Board

(Corporate Seal)



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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Provisions of Code considered continuations of existing ordinances.
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Sec. 1-1. Designation and citation of Code.

The provisions in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Edgecombe County, North Carolina," and may be so cited. Such Code may also be cited as the Edgecombe County Code.

State Law References: Authority of county to adopt and issue a code of its ordinances, G.S. 153A-49; pleading and proving county ordinances, G.S. 153A-50; general ordinance-making power, G.S. 153A-121; territorial jurisdiction of ordinances, G.S. 153A-122; authority not limited by enumeration of powers, G.S. 153A-124.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed unless inconsistent with the manifest intent of the board of county commissioners or the context clearly requires otherwise:

Board, board of county commissioners and board of commissioners. The terms "board," "board of county commissioners" and "board of commissioners" mean the Board of Commissioners of Edgecombe County, North Carolina.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Code. The terms "the Code" and "this Code" mean the Code of Ordinances, Edgecombe County, North Carolina, as designated in section 1-1.

Computation of time. In computing any period of time prescribed or allowed by this Code, by order of court or by any applicable statute, including ordinances, orders or statutes respecting publication of notices, the day of the act, event, default or publication after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal



holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

State Law References: Computation of time, G.S. 1-593, 1A-1, rule 6(a).

County. The terms "the county" and "this county" mean Edgecombe County, in the State of North Carolina.

Daytime, nighttime. Daytime is the period of time between sunrise and sunset, and nighttime is the period of time between sunset and sunrise.

Gender. Terms importing the masculine, feminine or neuter gender include each of the other genders.

G.S. The designation "G.S." appearing in the text or in the state law references or other notes refers to the General Statutes of North Carolina, as amended.

Keeper and proprietor. The terms "keeper" and "proprietor" mean person, firm, association, corporation, club and partnership, whether acting by themselves or as a servant, agent or employee.

Month. The term "month" means a calendar month.

Nontechnical and technical words. Terms and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. Terms used in the singular include the plural, and words used in the plural include the singular number.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases, the terms "affirm" and "affirmed" shall be equivalent to the terms "swear" and "sworn."

Officials, boards, commissions and departments. Whenever reference is made to officials, boards, commissions and departments by title only, they shall be deemed to refer to the officials, boards, commissions and departments of Edgecombe County.

Owner. The term "owner," when applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of such building or land.

Person. The term "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property. The term "personal property" includes every species of property except real property.



Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Real property. The term "real property" includes lands, tenements and hereditaments.

Residence. The term "residence" means the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Right-of-way. Except with respect to vehicle and traffic regulations, the term "right-of-way" means land that is dedicated or otherwise legally established for public use.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. If a street includes two or more separate roadways, the term "roadway" refers to any such roadway separately but not to all such roadways collectively.

Shall, may. The term "shall" is mandatory and not merely directory; the term "may" is permissive.

Sidewalk. The term "sidewalk" means that portion of the street right-of-way which is improved and designated for the use of pedestrians.

Signature and subscription. The terms "signature" and "subscription" include a mark where a person cannot write.

State. The terms "the state" and "this state" mean the State of North Carolina.

Street, highway. The term "street" means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms "highway" and "street" shall be used synonymously.

Tenant and occupant. The terms "tenant" and "occupant," applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

Tense. Terms used in the past or present tense include the future as well as the past and the present.

Written and in writing. The terms "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means 12 consecutive months.

State Law References: Similar provisions, G.S. 12-3, 20-4.01.

Sec. 1-3. Provisions of Code considered continuations of existing ordinances.



The provisions appearing in this Code, so far as they are the same as those of prior county ordinances, shall be considered as continuations thereof and not as new enactments.

State Law References: Similar provisions applicable to state statutes, G.S. 153A-2.

Sec. 1-4. Repeal, expiration and revival of ordinances.

(a) The repeal of an ordinance, or its expiration by virtue of any provisions contained in the ordinance, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law References: Repeal of statute not to affect actions, G.S. 12-2; effect of county government law on prior laws and actions taken pursuant to prior laws, G.S. 153A-2; construction of General Statutes, G.S. 164-1 et seq.

Sec. 1-5. Catchlines, history notes and references.

(a) The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history notes appearing in parentheses after each section and the references and notes scattered throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

Sec. 1-6. Severability.

It is declared to be the intention of the board of commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the board of commissioners without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-7. General penalty.

(a) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of any section or subsection of this Code, or any ordinance of this county now in force or hereafter enacted, to which no specific penalty is affixed, shall be punished by a fine not to exceed \$500.00, or shall be imprisoned for not more than 30 days, for each offense.

(b) Any ordinance in this Code may be enforced by an appropriate legal remedy issuing from a court of competent jurisdiction. It shall not be a defense to the application of the county for equitable relief that there is an adequate remedy at law.



(c) Each day that any breach or violation of or any failure to comply with any provision or requirement of any section or subsection of this Code or any ordinance of this county now in force or hereafter enacted continues, or is allowed to continue, shall constitute a separate and distinct offense; but nothing contained in this section or this Code shall be construed to relieve, or shall have the effect of relieving, any offender of any fine, imprisonment or penalty for repeated violations on any one day of any ordinance now in force or hereafter enacted, or any section or subsection of this Code.

(d) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under this Code.

(e) If any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the county in addition to the imposition of a fine or imprisonment.

(f) Any provision of this Code or other ordinance of the county may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

State Law References: Violations of county ordinances deemed misdemeanors, G.S. 14-4, 153A-123; prescribing alternate methods for enforcement of ordinances and authorizing the making of each day's continuing violation a separate offense, injunction, G.S. 1-485 et seq.

Sec. 1-8. Amendments or additions to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Edgecombe County, North Carolina, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Edgecombe County, North Carolina, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as desired.

Sec. 1-9. Supplementation of Code.

(a) By contract or by county personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of commissioners. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the board during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and



parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted in the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness;
- (3) Any contract or obligation assumed by the county;
- (4) Any ordinance fixing the salary of any county officer or employee;
- (5) Any right or franchise granted by the county;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the county;
- (7) Any appropriation ordinance;
- (8) Any ordinance which by its own terms is effective for a stated or limited term;



- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any zoning map amendment;
- (11) Any ordinance dedicating or accepting any subdivision plat;
- (12) Any ordinance related to social security and retirement benefits for county officers and employees;
- (13) Any ordinance levying or imposing taxes not included in this Code;
- (14) Any ordinance establishing or prescribing street grades;
- (15) Any cable television ordinance;
- (16) Any ordinance setting fees, charges or rates for any county services;

nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by the ordinance adopting this Code; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

State Law References: Authority of board to omit ordinances of the types enumerated above from the Code, G.S. 153A-49; statutes not repealed by General Statutes, G.S. 164-7.



Chapter 2

ADMINISTRATION*

* **Cross References:** Any ordinance or resolution promising or guaranteeing the payment of money for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness saved from repeal, § 1-10(2); any contract or obligation assumed by the county saved from repeal, § 1-10(3); emergency management and services, ch. 8; administration of abandoned and junked motor vehicle policy, § 10-32; facilities, ch. 12; human relations, ch. 14; law enforcement, ch. 16; administration and application of public and private road provisions, § 20-34; utilities, ch. 26.

State Law References: Administration of county government generally, G.S. 153A-76 et seq.

Article I. In General

Secs. 2-1--2-30. Reserved.

Article II. Board of Commissioners

Division 1. Generally

Secs. 2-31--2-50. Reserved.

Division 2. Rules of Procedure

Sec. 2-51. Applicability of division provisions.
Sec. 2-52. Open meetings.
Sec. 2-53. Closed sessions.
Sec. 2-54. Organizational meeting.
Sec. 2-55. Election of the chair.
Sec. 2-56. Meetings.
Sec. 2-57. Meetings to be held within the county.
Sec. 2-58. Broadcasting and recording meetings.
Sec. 2-59. Agenda.
Sec. 2-60. Conduct of debate.
Secs. 2-61--2-90. Reserved.

Article III. Officers and Employees

Sec. 2-91. Fee schedule.
Secs. 2-92--2-120. Reserved.

Article IV. Boards, Commissions and Committees

Sec. 2-121. [Policy for reimbursement.]

ARTICLE I.

IN GENERAL

Secs. 2-1--2-30. Reserved.

ARTICLE II.

BOARD OF COMMISSIONERS*



* **State Law References:** Board of commissioners to organize county government, G.S. 153A-76.

DIVISION 1.

GENERALLY

Secs. 2-31--2-50. Reserved.

DIVISION 2.

RULES OF PROCEDURE

Sec. 2-51. Applicability of division provisions.

The rules in this division apply to all meetings of the county board of commissioners at which the board is empowered to exercise any of the executive, quasijudicial, administrative, or legislative powers conferred on it by law.

(Ord. of 4-10-1999, rule 1)

Sec. 2-52. Open meetings.

(a) It is the public policy of the state and of the county that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in the rules of this division and in accordance with applicable law, each official meeting of the county board of commissioners shall be open to the public, and any person is entitled to attend such a meeting.

(c) For the purposes of the provisions of the rules of this division concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

(Ord. of 4-10-1999, rule 2)

Sec. 2-53. Closed sessions.

(a) Notwithstanding the provisions of section 2-52, the board may hold a closed session and exclude the public under the following circumstances and no others, to:

- (1) Prevent the disclosure of information that is privileged or confidential pursuant to the law of this state or of the United States, or is not considered a public record within the meaning of G.S. ch. 132.



- (2) Consult with the county attorney or another attorney employed or retained by the county in order to preserve the attorney-client privilege.
- (3) Discuss matters relating to the location or expansion of industries or other businesses in the county.
- (4) Consider and take action with respect to the position to be taken by the county in negotiating the price or other material terms of an agreement for the acquisition or lease of real property.
- (5) Consider and take action with respect to the position to be taken by the county in negotiating the amount of compensation or other material terms of an employment contract.
- (6) Consider the initial employment or appointment of an individual to any office or position, other than a vacancy in the board of county commissioners or any other public body, and to consider the qualifications, competence, performance, character, and fitness of any public officer or employee, other than a member of the board of commissioners or of some other public body.
- (7) Hear or investigate a charge or complaint by or against an individual public officer or employee.
- (8) Plan, conduct or hear reports concerning investigations of alleged criminal misconduct.

(b) The board may go into closed session only upon motion made and adopted at an open meeting. A motion to go into closed session must cite one or more of the permissible purposes listed in subsection (a) of this section. In addition, a motion to go into closed session pursuant to subsection (a)(1) of this section must state the name or citation of the law that renders the information to be discussed privileged or confidential, and a motion to go into closed session pursuant to subsection (a)(2) of this section must identify the parties in each existing lawsuit, if any, concerning which the board expects to receive advice during the closed session.

(c) Unless the motion to go into closed session provides otherwise, the county manager, county attorney, and clerk to the board may attend the closed session. No other person may attend the closed session unless specifically invited by majority vote of the board.

(Ord. of 4-10-1999, rule 3)

Sec. 2-54. Organizational meeting.

The board shall hold an organizational meeting at its regular meeting place at 7:00 p.m. on the first Monday in December of each year. The agenda for this organizational meeting shall be limited to induction of newly elected members of the board of county commissioners and other elected county officials and organization of the board for the ensuing year. The organizational meeting shall be convened and concluded before the regular December meeting is convened. The county attorney shall call the meeting to order and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from among its members.

(Ord. of 4-10-1999, rule 4)



Sec. 2-55. Election of the chair.

The chair and vice-chair of the board shall be elected annually for a term of one year and shall not be removed from the office unless they becomes disqualified to serve as a member of the board.
(Ord. of 4-10-1999, rule 5)

Sec. 2-56. Meetings.

(a) *Regular meetings.* The board shall hold a regular meeting on the first Monday of each month, with the following exceptions:

- (1) The September board of commissioners meeting will be on the Monday following Labor Day at 7:00 p.m. due to Labor Day being the first Monday of September.
- (2) If any other regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting.
- (3) Regular meetings shall be held at the county commissioner's room and shall begin at 7:00 p.m.

The board may change the place or time of a particular regular meeting or all regular meetings within a specified time period by resolution adopted, posted, and noticed no less than seven days before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

(b) *Special meetings.* The chair or a majority of the members of the board may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the subjects to be considered. The persons who call the meeting shall cause the notice to be posted on the principal bulletin board of the county and/or the door of the regular meeting place and delivered to the chair and all other board members or left at the usual dwelling place of each member at least 48 hours before the meeting. In addition, the notice shall be mailed or delivered to individual persons and news media organizations who have requested such notice as provided in subsection (d) of this section. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

(c) *Emergency meetings.* If a special meeting is called to deal with an unexpected circumstance that requires immediate consideration by the board, the notice requirements of this section do not apply. However, the persons who call an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations who have requested notice of special meetings as provided in subsection (d) of this section, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

(d) *Sunshine list.* Any individual person and any newspaper, wire service, radio station, and television station may file with the clerk of the board of commissioners a written request for notice of all special



meetings of the board. Requests by individuals must be renewed annually and are subject to a nonrefundable annual fee to be set from time to time by resolution of the board of commissioners. Requests made by news media organizations must also be renewed annually and are not subject to any fee.

(e) *Work sessions and committee meetings.* The board may schedule work sessions, committee meetings, or other informal meetings of the board or a majority of the members of the board at such times and with respect to such subject matters as may be established by resolution or order of the board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held on a regular schedule are subject to the same notice requirements as special board meetings.

(Ord. of 4-10-1999, rule 6)

Sec. 2-57. Meetings to be held within the county.

- (a) The board of commissioners shall hold all its meetings within the county except:
- (1) In connection with a joint meeting of two or more public bodies; provided, however, that such a meeting shall be held within the boundaries of the political subdivision represented by the members of one of the public bodies present.
 - (2) In connection with a retreat, forum, or similar gathering held solely for the purpose of providing members of the board with general information relating to the performance of their public duties; provided, however, that members of the board of commissioners shall not vote upon or otherwise transact public business while in attendance at such a gathering.
 - (3) In connection with a meeting between the board of commissioners and its local legislative delegation during a session of the General Assembly; provided, however, that at any such meeting the members of the board of commissioners may not vote upon or otherwise transact business except with regard to matters directly relating to legislation proposed to or pending before the General Assembly.
 - (4) While in attendance at a convention, association meeting or similar gathering; provided, however, that any such meeting may be held solely to discuss or deliberate the board's position concerning convention resolutions, elections of association officers and similar issues that are not legally binding upon the board of commissioners or its constituents.

(b) All meetings held outside the county shall be deemed "official meetings" within the meaning of G.S. 143-318.10(d).

(Ord. of 4-10-1999, rule 7)

State Law References: Similar provisions, G.S. 143-318.10(d).

Sec. 2-58. Broadcasting and recording meetings.

(a) Except as provided in this section, any radio or television station is entitled to broadcast all or any part of an official meeting of the board that is required to be open to the public. Any person may



photograph, film, tape record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official meeting of the board shall so notify the county manager no later than 24 hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the county office building is available, the county manager may require the news media either to pool equipment and personnel or to secure and pay the costs of an alternative meeting site that is mutually agreeable to the board and media representatives.
(Ord. of 4-10-1999, rule 8)

Sec. 2-59. Agenda.

(a) *Generally.* The clerk of the board, county manager and chair shall prepare the agenda for each regular, special, and emergency meeting. Any board member may, by a timely request, have an item placed on the agenda. The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each member of the board at least 72 hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his usual dwelling. The board may, by majority vote, add an item that is not on the agenda.

(b) *Informal public comments.* The agenda of each regular meeting shall include a section allowing for comments or questions from members of the public in attendance. The chair will first recognize individuals or groups who have made a prior appointment to be heard, and then may recognize others, subject to available time. The chair may specify the time allotted to each speaker.

(c) *Order of business.* At regular meetings, the board shall proceed to business in the following order:

- (1) Approval of the minutes of the previous meeting.
- (2) Scheduled public hearings.
- (3) Scheduled appointments.
- (4) Public petitions.
- (5) Other business.
- (6) Administrative reports.
- (7) Committee reports.

Without objection, the chair may call items in any order most convenient for the dispatch of business.
(Ord. of 4-10-1999, rules 9--11)



Sec. 2-60. Conduct of debate.

(a) *Powers of the chair.* The chair shall preside at all meetings of the board. A member must be recognized by the chair in order to address the board. The chair shall have the following powers:

- (1) To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
- (2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (3) To call a brief recess at any time;
- (4) To adjourn in an emergency.
- (5) The chair may participate or engage in debate and all matters before the board.

(b) *Action by the board.* The board shall proceed by motion. Any member, including the chair, may make a motion.

(c) *One motion at a time.* A member may make only one motion at a time.

(d) *Substantive motion.* A substantive motion is out of order while another substantive motion is pending.

(e) *Adoption by majority vote.* A motion shall be adopted if approval by a majority of the votes cast, a quorum being present, unless an extraordinary majority is required by this division or the laws of the state.

(f) *Presiding officer.* The chair shall state the motion and then open the floor to debate, presiding over the debate according to these general principles:

- (1) The member making the motion or introducing the ordinance, resolution, or order is entitled to speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) To the extent possible, the debate shall alternate between opponents and proponents of the measure.

(g) *Procedural motions.*

- (1) In addition to substantive proposals, the procedural motions listed in subsection (g)(2) of this section, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may



be amended, and requires a majority vote for adoption:

- (2) In order of priority (if applicable), the procedural motions are to:
- a. Adjourn. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
 - b. Take a recess.
 - c. Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived.
 - d. Suspend the rules. The motion requires a vote equal to a quorum.
 - e. Divide a complex motion and consider it by paragraph.
 - f. Defer consideration. A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
 - g. Call the previous question. The motion is not in order until every member has had at least one opportunity to speak.
 - h. Postpone to a certain time or day.
 - i. Refer to committee. Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.
 - j. Amend. An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.
 - k. Revive consideration. The motion is in order at any time within 100 days of a vote deferring consideration of it. A substantive motion on which consideration has been deferred expires 100 days after the deferral, unless a motion to revive consideration is adopted.
 - l. Reconsider. The motion must be made at the same meeting at which the original vote was taken, and by a member who voted with the prevailing side. The motion cannot interrupt deliberation on a pending matter but is in order at any time before adjournment.
 - m. Prevent reconsideration for six months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires a vote equal to a quorum and is valid for six months or until the next regular election of



county commissioners, whichever occurs first.

(h) *Renewal of motion.* A defeated motion may not be renewed at the same meeting.

(i) *Withdrawal of motion.* A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

(j) *Duty to vote.* It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative.

(k) *Prohibition of secret voting.* No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

(l) *Action by reference.* The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

(m) *Introduction of ordinances, resolutions, and orders.* A proposed ordinance shall be deemed introduced at the first meeting at which it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

(n) *Adoption, amendment, or repeal of ordinances.* To be adopted at the meeting where first introduced, an ordinance or any action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority of those voting but not by all the members of the board, or if the measure is not voted on at the meeting where introduced, it shall be considered at the next regular meeting of the board. If the proposal receives a majority of the votes cast at the next meeting or within 100 days of being introduced, it is adopted.

(o) *Quorum.* A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

(p) *Public hearings.* Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place, and time of hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives



to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

- (q) *Quorum at public hearings.* A quorum of the board shall be required at all public hearings required by law.
- (r) *Minutes.* Minutes shall be kept of all board meetings.
- (s) *Appointments.*
 - (1) The board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.
 - (2) The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. When debate ends, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.
 - (3) Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failing to do so does not invalidate that member's ballot.
- (t) *Reference to Robert's Rules of Order.* To the extent not provided for in, and not conflicting with the spirit of these rules, the chair shall refer to Robert's Rules of Order, Newly Revised, to resolve procedural questions.
(Ord. of 4-10-1999, rules 12--32)

Secs. 2-61--2-90. Reserved.

ARTICLE III.

OFFICERS AND EMPLOYEES*

* **Cross References:** Any ordinance fixing the salary of any county officer or employee saved from repeal, § 1-10(4); any ordinance related to social security and retirement benefits for county officers and employees saved from repeal, § 1-10(12); animal control officers, § 4-35.

State Law References: County personnel, G.S. 153A-92 et seq.

Sec. 2-91. Fee schedule.

(a) *Adoption.* Pursuant to and in accordance with G.S. 153A-102, Appendix A, entitled "Fee Schedules," attached to and made a part of this section by reference, is hereby adopted to fix the schedule of fees and commissions to be charged by the county officers and employees for performing the services and



duties permitted or required by law and set forth in such fee schedules.

(b) *Amendment.* The fee schedules set forth in such Appendix A and adopted hereby are incorporated in this section by reference and may be amended in whole or in part by the board of county commissioners from time to time.

(c) *Maintenance.* Official copies of such fee schedules as adopted hereby and as they may be subsequently amended shall be maintained in the county finance department and planning department. (Ord. of 6-3-2002, §§ 1--3)

State Law References: Board of commissioners to fix fees charged by county officers and employees for performing services, G.S. 153A-102.

Secs. 2-92--2-120. Reserved.

ARTICLE IV.

BOARDS, COMMISSIONS AND COMMITTEES*

* **Cross References:** County emergency medical services advisory council, § 8-124.

State Law References: Authority of board of commissioners over boards, commissions and agencies, G.S. 153A-77.

Editors Note: Ord. No. 11072005-1, §§ 1,2, adopted Nov. 7, 2005, did not specifically amend the Code. However at the discretion of the editor it has been added as section 2-121. See also The Code Comparative Table.

Sec. 2-121. [Policy for reimbursement.]

(a) This policy shall apply to: the planning board, board of adjustment, board of elections, board of health, and department of social services board of directors; and that the board of commissioners may include other boards, commissions and committees as it deems necessary.

(b) The board of commissioners finds it necessary and practical to provide for a reasonable compensation to members of the aforementioned boards, commissions and committees for the reimbursement of their expenses incurred in connection with their attendance of official board, commission or committee meetings. The amount is not to exceed the amount established by the board of commissioners. This amount will only be provided after a regularly scheduled meeting or a meeting called by the chairperson or his/her designee, and the board, commission or committee member must be present at the meeting to receive the reimbursement. The amount of reimbursement shall be paid on a monthly basis. (Ord. of 11-7-2005, §§ 1, 2)



Chapter 3

RESERVED



Chapter 4

ANIMALS*

* **Cross References:** Environment, ch. 10.

State Law References: Authority to prohibit the abuse of animals, G.S. 153-127; authority to establish and operate animal shelters, G.S. 153A-442.

Article I. In General

Secs. 4-1--4-30. Reserved.

Article II. Animal Control

Division 1. Generally

Sec. 4-31. Authority.
Sec. 4-32. Applicability of article provisions to veterinarians.
Sec. 4-33. Definitions.
Sec. 4-34. Animal shelter.
Sec. 4-35. Animal control officers.
Sec. 4-36. Animal license privilege taxes.
Sec. 4-37. Licenses, permits and registrations; privilege taxes required.
Sec. 4-38. Animal control program.
Sec. 4-39. Relation to hunting laws.
Sec. 4-40. Notice in case of injury.
Sec. 4-41. Mistreatment of animals unlawful.
Sec. 4-42. Control of vicious animals; security dogs.
Sec. 4-43. Impoundment of animals.
Sec. 4-44. Handling of stray animals.
Sec. 4-45. Public nuisance.
Sec. 4-46. Rabies control.
Sec. 4-47. Rabies tag.
Sec. 4-48. Penalties.
Secs. 4-49--4-70. Reserved.

Division 2. Kennel and Pet Shop Standards

Sec. 4-71. Standards for class I kennels.
Secs. 4-72--4-130. Reserved.

Article III. Wild or Exotic Animals

Division 1. Generally

Sec. 4-131. Purpose of article.
Sec. 4-132. Definitions.
Sec. 4-133. Primary and secondary enclosure required.
Sec. 4-134. Permit.
Sec. 4-135. Wild animals at large.
Sec. 4-136. Enforcement.
Sec. 4-137. Severability.
Secs. 4-138--4-160. Reserved.

Division 2. Standards for Primary and Secondary Enclosures

Sec. 4-161. Purpose of division.



Sec. 4-162. Primary enclosures.
Sec. 4-163. Secondary enclosures.
Sec. 4-164. Variation from division provisions.
Sec. 4-165. Structural integrity to be maintained.

**ARTICLE I.
IN GENERAL**

Secs. 4-1--4-30. Reserved.

**ARTICLE II.
ANIMAL CONTROL**

**DIVISION 1.
GENERALLY**

Sec. 4-31. Authority.

This article is adopted pursuant to the power granted the county in G.S. 153A-121, 153A-127, 153A-153 and 153A-442.

Sec. 4-32. Applicability of article provisions to veterinarians.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article except for the provisions relating to cruelty to animals and rabies control.

Sec. 4-33. 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:

Adequate food means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate shelter means that shelter which will keep the animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moistureproof structure of suitable size to accommodate the animal and allow retention of body heat.

Adequate water means a constant access to a supply of clean, fresh water provided in a sanitary manner.



Animal means any live, vertebrate creature specifically including, but not limited to, dogs, cats, farm animals, birds, fish and reptiles.

Animal control officer means that person designated by appropriate authority in the county, and where appropriate, his designee, charged with the responsibility and authority to implement and enforce the animal control program in the county.

Animal shelter means a place provided and operated by the county directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption and disposition of animals.

At large means any animal off the property of its owner or its keeper and not under the restraint of a competent person.

Class I kennel means any person maintaining an establishment where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, or sport, and which establishment is so constructed that the animals cannot stray from the establishment, and which maintains more than six but less than 19 animals. Hunting animals as defined under G.S. 113 are excluded from this provision.

Class II kennel means any person maintaining an establishment where animals of any species, excluding domesticated livestock, kept for the purpose of breeding, buying, selling or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray from the establishment; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.

Competent person means a person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal and to persons, other animals, including but not limited to domesticated livestock, or property.

Cruelty and cruel treatment means every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such acts or omissions shall include, but not be limited to, beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the wildlife resources commission, lawful activities sponsored by agencies conducting biomedical research or training, or lawful activities for sport.

Domesticated livestock means livestock raised for the production of meat, milk, eggs or fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits and poultry.

Exposed to rabies means an animal that has been bitten by or has otherwise come into contact with any animal known or suspected to have been infected with rabies.



Harbor means to feed or shelter an animal by the same person or household for 72 consecutive hours or more.

Health director means the director of the county health department.

Keeper means a person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Owner means any person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner of an animal is responsible for the care, actions and behavior of the animal.

Person means any individual, family, group of individuals, corporation, partnership, organization or institution recognized by law as a person.

Public nuisance means the following activities of an animal, or conditions maintained or permitted by the animal's owner or keeper:

- (1) The animal is found at large off the premises of its owner or keeper and not under the restraint of a competent person.
- (2) The animal damages the property of anyone other than its owner or keeper, including but not limited to turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causes injury to domesticated livestock or pets.
- (3) The animal habitually and repeatedly barks, whines or howls so as to interfere seriously with the reasonable use and enjoyment by neighboring residents of their property.
- (4) The animal repeatedly chases, snaps at or barks at persons, domesticated livestock, pets or vehicles when it is not in an enclosure, leashed or on the owner's or keeper's property.
- (5) The owner or keeper fails to confine a female dog while in heat (estrus) in a building or secure enclosure in such a manner that she will not be in contact with another dog; however, this subsection shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

Security dog means any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as follows:

- (1) *Patrol dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- (2) *Sentry dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.



- (3) *Watchdog* means a dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.

Steel jaw trap means spring-powered devices or traps that capture or hold an animal by exerting a lateral force with fix-mounted jaws on the leg, toe, paw or any other part of the animal's body.

Stray means any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

Suspected of having rabies means an animal that has bitten a person or another animal.

Under restraint means that an animal is under sufficient physical restraint such as a leash, cage, bridle, or similar effective and humane device that restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure. If a competent adult is physically outside on the land with the animal, on land where the owner or keeper of the animal resides, the animal shall be deemed to be under restraint during the time the animal is in the company of and under the control of that competent person and the animal is on the premises. If any unattended animal is restrained by a chain, leash or similar restraint, it shall be designed and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and either on a swivel designed to prevent the animal from choking or strangling itself, or on a chain run.

Veterinary hospital means any place or establishment maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal on or off the premises of its owner or keeper, security dogs excluded, which animal is three months of age or older and without provocation has bitten, killed, or caused physical harm through bites to a person who is not trespassing and or has bitten or killed an animal that is not where its owner has been told such animal cannot be. Any dog that is owned or harbored for the purpose of dogfighting or training for dogfighting is also a vicious animal.

Cross References: Definitions generally, § 1-2.

Sec. 4-34. Animal shelter.

The county shall operate and maintain a county animal shelter for the purpose of impounding or caring for animals held under the authority of state law, this article or any other county or municipal ordinance. The county may contract for the operation of the animal shelter as it deems appropriate.

Sec. 4-35. Animal control officers.

(a) The county may appoint or delegate the appointment of one or more animal control officers. Any such officers shall be county employees. County animal control officers shall have only the following powers and duties within the county and within any municipality in the county that has given prior approval:



- (1) The responsibility for the enforcement of all state and local laws, including ordinances, resolutions and proclamations, pertaining to the ownership and control of dogs and other animals.
 - (2) To cooperate with the county health director and all law enforcement officers in the county and the towns in the county and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.
 - (3) To investigate reported or observed animal cruelty or animal abuse and make written reports of such investigations and, when requested, provide such reports to animal cruelty investigators, appropriate law enforcement officers or the district attorney's office.
 - (4) To investigate reports of observed harassment or attacks by dogs or other animals against domesticated livestock.
- (b) County animal control officers shall not have the power to arrest.
Cross References: Officers and employees, § 2-91 et seq.

Sec. 4-36. Animal license privilege taxes.

The county may set animal license privilege taxes as allowed by law and set the tax amounts annually as part of the budget. In order to further the goals of controlling animal population, the taxes of unspayed or unneutered dogs and cats shall be higher than those of spayed or neutered animals. Within 30 days of acquisition of an animal for which a license is required, the owner or keeper shall purchase the appropriate county license.

Sec. 4-37. Licenses, permits and registrations; privilege taxes required.

- (a) The following licenses, permits and registrations may be required by this article:
 - (1) Licenses for dogs, cats or other animals designated by the board of commissioners in the budget ordinance (see section 4-36).
 - (2) Registration of patrol dogs or sentry dogs (see section 4-42(d)).
 - (3) Rabies tags for dogs and cats (see section 4-47).
 - (4) Permits for the collecting of dogs and cats for sale (see section 4-91).
 - (5) Permits for commercial (class II) kennels, noncommercial (class I) kennels and pet shops (see division 2 of this article).
- (b) The amount of license or permit privilege tax shall be recommended by the animal control



director and approved by the board of commissioners in the budget ordinance. The animal control director may propose for approval by the board of commissioners such policies or procedures as may be necessary or appropriate to allow for payment of privilege taxes over extended periods of time, at reduced rates, or a waiver of privilege taxes. Additionally, dog and cat owners or keepers who furnish to the animal control director a statement from a licensed veterinarian that the animal, due to age, physical reasons or chronic health problems cannot withstand spay/neuter surgery, shall be allowed to pay the license privilege taxes provided for spayed or neutered animals.

(c) When an animal is impounded under this article there shall be paid, in accordance with section 4-43, a redemption fee as determined annually in the budget ordinance.

Sec. 4-38. Animal control program.

The county animal control program, as described in this article and as otherwise described in other county ordinances related to animals and as otherwise described in state laws, shall be administered by the health director or sheriff. Specifically:

- (1) The health director or sheriff shall designate employees or agents enforcing this article as animal control officers and rabies control officers. Animal cruelty investigators may be appointed by the board of county commissioners as provided by law. In the performance of their duties, officers and investigators shall have all the power, authority and immunity granted under this article and by the general laws of this state to enforce the provisions of this article, and the laws of this state as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the joint responsibility of and shall be jointly carried out by the animal control investigators and the animal control officers of the county.
- (2) Except as may be otherwise provided by law, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this article or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duty unless he acts with actual malice.
- (3) It shall be unlawful for any person to interfere with, hinder or molest any animal control officer, rabies control officer, animal cruelty investigator, or police officer while in the performance of any duty authorized by this article or the animal control program, or to seek to release any animal in the custody of any of those agents, except in the manner as provided in this section.
- (4) The animal control program shall:
 - a. Have the responsibility along with law enforcement agencies and where applicable with animal cruelty investigators to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling this duty.
 - b. Enforce and carry out all laws of the state and all ordinances of the county pertaining to



rabies control.

- c. Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the health director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
- d. Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals.
- e. Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in the county involved in a violation of this article or any other county ordinance or state law.
- f. Investigate cruelty or abuse with regard to animals independently or with a duly appointed animal cruelty investigator.
- g. Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this article or applicable state statute.
- h. Keep, or cause to be kept, accurate and detailed records of:
 1. Seizure, impoundment and disposition of all animals coming into the custody of the animal control program.
 2. Bite cases, violations and complaints, and their investigation, including names and addresses of persons bitten, date, circumstances and breed.
 3. Any other matters deemed necessary by the animal control director.
- i. Be empowered to issue citations or notices of violation of this article in such form as the animal control director may prescribe.

Sec. 4-39. Relation to hunting laws.

Nothing in this article is intended to be in conflict with the laws of the state regulating, restricting, authorizing or otherwise affecting dogs while used in hunting; but this exception applies only while the dogs are under the control of the owner, keeper or competent person and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations or ordinances. This article should be read and enforced consistent with any such law.

Sec. 4-40. Notice in case of injury.

It shall be unlawful for any person who causes injury to an animal including, but not limited to, running over or hitting the animal with, any vehicle, to fail to notify immediately at least one of the following:



- (1) The owner or keeper of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper);
- (2) An animal control officer;
- (3) The sheriffs department; or
- (4) The animal shelter.

Sec. 4-41. Mistreatment of animals unlawful.

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this article:

- (1) It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water. With respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- (2) It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; however, this subsection shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.
- (3) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- (4) It shall be unlawful for any person to tether any fowl.
- (5) It shall be unlawful to restrain any animal except in a humane fashion; minimum standards of restraint are set out in section 4-33, under the definition of "under restraint."
- (6) It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper.
- (7) It shall be unlawful to possess any paraphernalia related to dogfighting, cockfighting or other animal fighting including, but not limited to, gaffs.
- (8) It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or



closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit.

- (9) It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of G.S. 14-362, as they relate to dogs, or to commit any other act made unlawful by any other law of the state relating to animal fighting or animal baiting. The repeal of such laws of the state shall have no effect upon this subsection, and the acts made unlawful in this subsection shall, in the event of such repeal, be those referred to in the laws immediately prior to such repeal.
- (10) It shall be unlawful for any person to abandon or forsake any animal within the county.

Sec. 4-42. Control of vicious animals; security dogs.

- (a) It shall be unlawful for any person to keep any vicious animal within the county, unless under restraint and on the premises of the owner or keeper. Security dogs are subject to all other provisions of this article while off the premises of their owner or keeper.
- (b) Upon an animal control officer's observation of a vicious animal at large or off the premises of its owner or keeper and not restrained by a competent person, such officer shall impound the animal.
- (c) Upon an animal control officer's receipt of a complaint that an animal is behaving or has behaved viciously and is at large or off the premises of its owner or keeper and not restrained by a competent person, the officer shall investigate the complaint and, upon a finding that there is probable cause to believe a violation of this article or other applicable law or regulation has occurred, shall take any action allowed by this article or state law as the circumstances may require.
- (d) All persons owning security dogs that are classed as patrol dogs or sentry dogs shall register such animals with the animal control director; the owner or keeper of any dog that is classed as a patrol dog or sentry dog under this article shall place a sign or placard on his premises noting "Beware of Dog" or other information noting the presence of security dogs.
- (e) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when the animal shelter manager in consultation with the animal control director is reasonably assured that the animal is not vicious or that the vicious animal will be properly restrained on the premises of its owner or keeper.

Sec. 4-43. Impoundment of animals.

- (a) A domesticated animal impounded under this article may be reclaimed by its owner or keeper according to the procedures of the animal shelter. The owner or keeper of an impounded domesticated animal shall be responsible for and shall pay all expenses, boarding costs, redemption privilege taxes and costs associated with such impoundment prior to reclaiming the animal. Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to animal shelter procedures after five days of impoundment. Feral dogs and cats may be held for 72 hours and then euthanized pursuant to animal shelter procedures for humane euthanasia. The owner or keeper of an impounded



domesticated animal shall also comply with any vaccination and licensing directives and be responsible for the payment to the county of all civil penalties and license privilege taxes imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the animal control director. Bitten quarantined animals not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the county animal shelter and disposed of according to standard animal shelter procedures.

(b) In lieu of impoundment, the animal control director is authorized to issue a confinement order to the animal owner or keeper that would require the owner or keeper to confine a vicious animal or an animal otherwise violating provisions of this article. Failure to thus confine the animal would constitute a further violation of this article, subjecting the owner to appropriate criminal or civil penalties.

Sec. 4-44. Handling of stray animals.

(a) It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, feed, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified an animal control officer or the animal shelter.

(b) Any animal at large may in a humane manner be seized, impounded and confined in the animal shelter and thereafter adopted out or disposed of pursuant to procedures of the animal shelter and applicable state law.

(c) Impoundment of such an animal shall not relieve its owner or keeper from any penalty that may be imposed for violation of this article.

(d) Any animal seized and impounded that is badly wounded or diseased and has no identification may be destroyed pursuant to procedures of the animal shelter. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, the animal shelter shall attempt expeditiously to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, the animal shelter and animal control program shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.

Sec. 4-45. Public nuisance.

It shall be unlawful for an owner or keeper to permit an animal to create a public nuisance, or to maintain a public nuisance created by an animal. Compliance shall be required as follows:

- (1) When an animal control officer or law enforcement officer observes a violation, the owner or keeper will be provided written notification of such violation and be given 24 hours or less to abate the nuisance.
- (2) Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance, the animal control director shall cause the owner or keeper of the animal in



question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report to be prepared.

- (3) If the written findings indicate that the complaint is justified, the animal control director shall cause the owner or keeper of the animal in question to be notified in writing, and shall order abatement of such nuisance within 24 hours or such lesser amount of time, which shall be designated on the abatement order.
- (4) If, after 24 hours or such lesser time as is designated in the abatement order, the nuisance is not abated, the animal creating the nuisance may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

Sec. 4-46. Rabies control.

It shall be unlawful and a violation of this article for any animal owner, keeper or other person to fail to comply with the laws of the state relating to the control of rabies.

Sec. 4-47. Rabies tag.

All dogs and cats shall wear a valid rabies tag.

Sec. 4-48. Penalties.

The following penalties shall pertain to violations of this article:

- (1) The violation of any provision of this article shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided in G.S. 14-4, or other applicable law. Each day's violation of this article is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, fees or civil penalties imposed under this article.
- (2) Enforcement of this article may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 153A-123(d), (e).
- (3) In addition to and independent of any criminal penalties and other sanctions provided in this article, a violation of this article may also subject the offender to the following civil penalties:
 - a. The animal control director may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this article, a ticket or citation giving notice of the alleged violation and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. The following violations may be cited and penalties shall be assessed for each violation of this article in an amount specified by the board of commissioners in their annual budget ordinance:



1. Failure to vaccinate for rabies (section 4-46).
2. Failure to wear rabies tags (section 4-47).
3. Failure to license (section 4-37).
4. Failure to permit an inspection (sections 4-73 and 4-91).
5. Mistreatment of animals (section 4-41).
6. Nuisance violation (section 4-45).

Civil penalties shall be paid to the health director or sheriff or his designee within 30 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this article.

- b. If the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this article; and upon conviction, the owner shall be punished as provided by state law. Failure on the part of the owner or keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of this article.

Secs. 4-49--4-70. Reserved.

DIVISION 2.

KENNEL AND PET SHOP STANDARDS

Sec. 4-71. Standards for class I kennels.

All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. Owners or operators of class I kennels must apply to the animal control director, pay any designated privilege tax and receive a permit to own or operate a noncommercial kennel in the county. Facilities shall be subject to inspection, during reasonable hours by the animal control officer upon his request. Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article. The premises at noncommercial kennels shall meet the following standards:

- (1) All enclosures housing animals must provide adequate shelter.
- (2) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.



- (3) All animals shall have fresh water available at all times.
- (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
- (5) All areas housing animals shall be free of accumulated or standing water.
- (6) All animals housed shall be provided with proper veterinary care to promote good health.

Secs. 4-72--4-130. Reserved.

ARTICLE III.

WILD OR EXOTIC ANIMALS*

* **Cross References:** Environment, ch. 10.
State Law References: Possession or harboring dangerous animals, G.S. 153A-131.

DIVISION 1.

GENERALLY

Sec. 4-131. Purpose of article.

(a) The board of commissioners is concerned for the safety and welfare of all of the citizens of the county as well as the safety and welfare of wild animals, and desires to enact an ordinance regulating the keeping of wild animals dangerous to persons and property in the county pursuant to G.S. 153A-121 et seq.

(b) For the reasons specified in subsection (a) of this section, the board of commissioners ordains the provisions of this article.

Sec. 4-132. 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:

Director means the director of the county health department or sheriff.

Owner means any person who keeps, has charge of, shelters, feeds, harbors or takes care of any wild animal in the county.

Permittee means any person who has been granted a permit to keep, shelter, feed, harbor or take care of any wild animal in the county.



Primary enclosure means any metal building, wire cage, padlock, pen or similar enclosure designed and used for the purpose of restraining and confining any wild animal, the keeping of which is regulated by this article. All such enclosures shall be constructed and maintained according to the standards set out in division 2 of this article.

Secondary enclosure means any enclosure not used for the primary confinement, exercise or training of wild animals. Each person keeping any wild animal shall construct and maintain continuously a secondary enclosure encompassing the complex of primary enclosures where such animals are kept, this secondary enclosure encompassing the complex of primary enclosures where such animals are kept. This secondary enclosure will be constructed and maintained according to the standards specified in division 2 of this article.

Wild animals dangerous to persons and property and *wild animals* mean all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of these animals. In order to properly administer the provisions of this article, the board may add to or remove from the classification of wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated in this article may be made only if the board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, requires the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

Cross References: Definitions generally, § 1-2; definitions generally, § 1-2.

Sec. 4-133. Primary and secondary enclosure required.

No person shall keep, shelter, feed, harbor or take care of any wild animal within the county unless all such animals shall be confined continuously within secure and locked primary and secondary enclosures. Each enclosure shall be constructed to standards specified for keeping each type of animal as identified in division 2 of this article.

Sec. 4-134. Permit.

(a) *Required.* Permits shall only be issued for animals physically located in the county and registered. It shall be unlawful for any person to possess or harbor in the county a wild animal without first applying for and obtaining a permit from the director. Further, it shall be unlawful for any person to trade, breed, sell or barter any wild animal unless exempted by the provisions contained in section 4-135. No permit shall be required for the transportation of wild animals through the county from a point of origin outside the county to a point outside the county.

(b) *Requirements.*

(1) As a condition precedent to the possession or harboring of any wild animal, the prospective owner or permittee shall have on the premises where such animal is kept sufficient equipment and/or chemicals necessary to tranquilize or kill any animal for which the owner or permittee has a permit to keep.



- (2) As a further condition, the prospective owner or permittee must present evidence of training and experience in the care and handling of wild animals.
- (3) Prospective owners or permittees must submit an application for the permit, which shall contain the following information:
 - a. Name and address of the applicant;
 - b. If a corporation, the state under which incorporated, the date of incorporation, the address of the principal office, and the names and addresses of its officers;
 - c. If any other type of organization, its name, the location of its office, and the names and addresses of the principal officers, directors, trustees, or managing officials or partners;
 - d. Statement of the owner's purpose in keeping the animal;
 - e. The place of origin (city or county and state) of the animals or classes of animals, including the method of acquisition (gift, purchase, etc.);
 - f. A description of each animal (size, weight, distinctive markings, etc.), including species and a photograph of each animal taken within seven days of the date the application is submitted.
 - g. List of previous incidents involving animals to be registered, including escapes, injury to persons or property, etc.;
 - h. The address of the premises where the animals will be kept;
 - i. A description of the method, materials and square footage of facilities for confinement of the animals;
 - j. Proof of the applicant's ability to respond in damages for bodily injury to or death of any person or for damage to property owned by any other person that may result from the ownership, keeping or maintenance of such animal, which shall be given by filing with the director a certificate of insurance from an insurance company authorized to do business in the state stating that the applicant is, at the time of application, insured by a policy of \$100,000.00 combined single limit liability for bodily injury and property damage, and which will provide that no cancellation of the insurance will be made unless ten days' written notice is first given to the director;
 - k. Copies of all state and federal permits and licenses required for such animals;
 - l. A schedule of the personnel who will service and maintain this facility;



- m. Keeper's training and experience with animals, especially wild animals, particularly the species in the application; and/or
 - n. A list of tranquilizing equipment, chemicals and instruments of destruction as required by this division.
- (4) Only one permit shall be required for each location at which wild animals are to be kept.
- (c) *Investigation by director.*
- (1) Each application for permit or amendment shall be filed with the director who shall inspect all locations for the keeping of any wild animal for cleanliness and safe possession of the animal.
 - (2) Prior to the granting of a permit or amendment, the applicant shall be required to present to the director, for his inspection, a state wildlife resources permit if the keeping of such animal in this state requires any such permit.
 - (3) Such permit or amendment shall be issued by the director after satisfactory completion of the application, proof of insurance, and evidence satisfactory to the director that the applicant will confine any wild animal in facilities that meet the standards contained in division 2 of this article.
 - (4) Such permit or amendment will not be issued by the director when he finds one or more of the following:
 - a. Intentional misstatements or misleading statements of fact in the application.
 - b. When the animal cannot or will not be kept or maintained without menacing the safety of any person or property.
 - c. When the animal is not, will not be, or cannot be maintained in a humane manner.
 - (5) Each applicant shall be notified by certified mail of the issuance or denial of a permit or permit amendment by the director.
 - (6) If the director does not issue a permit or amendment, the reasons for his not doing so shall be stated in writing and shall accompany the notice of denial.
 - (7) An applicant may request a hearing before the director by written request within five days after receipt of notice of denial of a permit or permit amendment. The director shall render a decision, including findings of fact based on the evidence presented at such hearing. If the director denies the permit after the hearing, the permittee shall be entitled to a hearing before the board by requesting a hearing in writing within five days of receipt of notice of denial.
- (d) *Permit revocation procedures.*



- (1) The director may revoke a permit if he finds violation of any section of this article.
- (2) The director will revoke a permit when he finds one or more of the following:
 - a. Intentional misstatements or misleading statements of fact in the application not discovered until after the issuance of the permit;
 - b. Any wild animal has been found off the premises approved for confinement of the animal without written permission of the director unless the permittee demonstrates that the animal's enclosure was adequately secured by a padlock or other securing device approved by the director and that such event was not the result of the permittee's fault or negligence;
 - c. An animal cannot or will not be kept or maintained without endangering the safety of any person or property; or
 - d. When the animal is not, will not be or cannot be maintained in a humane manner.
- (3) If the director revokes the permit, the permittee shall be entitled to a hearing before the board by requesting a hearing in writing within five days of receipt of notice of revocation. The decision of the board after hearing and the board's reasons shall be sent by certified mail or hand delivered to the permittee and shall constitute a final administrative decision.
- (e) *Transfer of permit.* The permit shall not be transferable with respect to person and locations.

Sec. 4-135. Wild animals at large.

- (a) It shall be unlawful for any wild animal to be off the premises approved for confinement of the animal or off the premises where it is kept and maintained without written permission of the director. It shall be the duty of the permittee or the person who keeps and maintains the animal to care for the animal at all times and maintain confinement as provided in the enclosure standards continued in division 2 of this article. When any wild animal is found off the premises approved for confinement or off the premises where it is kept and maintained without written permission of the director, the permittee or keeper may be charged with a criminal act. If convicted of a violation of this subsection, the court may order the animal to be euthanized or the permittee or keeper subjected to penalties as provided in section 4-137 or both euthanization and such penalties.
- (b) It shall be the duty of any permittee or keeper of a wild animal to immediately report to the sheriff's department when the animal is discovered missing.
- (c) Any person who possesses a wild animal in the county in violation of the provisions of this article shall be liable for the expenses incurred by the county and any law enforcement agency or other federal, state or local agency aiding in the search for, containment of, return of, or disposal of the animal when it is at large.



Sec. 4-136. Enforcement.

- (a) *Inspections.* The county animal control officer and the state wildlife resources commission shall make inspections of the enclosure in this article as follows:
- (1) *Approval of plans.* Prior to the construction of any enclosure specified by this article, such plans shall be submitted and approved by the inspections division. Such plans shall include a site plan, showing the location of the enclosures on the property in relation to existing dwellings and adjacent properties. Construction drawings of the enclosures shall be provided that illustrate construction materials and the dimensions of the enclosures in compliance with specifications for animal enclosures. Provisions for animal waste disposal and potable water shall be specified submitted to the health department for approval.
 - (2) *Initial inspection.* An initial inspection of the enclosure specified in this article shall be made to determine that the enclosure conforms to the design and location specified in this article.
 - (3) *Followup inspection.* The county animal control officer and the state wildlife resources commission shall inspect the enclosure specified in this article at least once during the period January 1 through June 30 and once during any such six-month period in which the initial inspection was made unless deemed necessary by the director.
- (b) *Permit and inspection; fee.* Every person possessing or harboring a wild animal, whose premises are inspected by the county animal control officer and the state wildlife resources commission shall pay the county an annual fee per site for permitting and inspections as set by the board.
- (c) *Investigations.* The county animal control officer and the state wildlife resources commission shall investigate any complaints that a wild animal is possessed or harbored in the county in violation of this article to determine whether or not a violation has occurred.
- (d) *Penalties.*
- (1) *Criminal offenses.* A violation of any provision of this article constitutes a misdemeanor and shall be punishable as provided in G.S. 14-4. Each day's continuing violation shall constitute a separate offense.
 - (2) *Civil penalty.* A person who violates any of the provisions of this article shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by certified letter. Each day of a continuing violation shall constitute a separate violation. The board shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter may be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this



article.

(3) *Injunctive relief.*

- a. Whenever the county animal control officer or the state wildlife resources commission has cause to believe that any person is violating or threatening to violate this article, the agency shall report the violation or threatened violation to the board. The board may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the county for injunctive relief to restrain the violation or threatened violation.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this article.

Sec. 4-137. Severability.

If any provision of this article or its application to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Secs. 4-138--4-160. Reserved.

DIVISION 2.

STANDARDS FOR PRIMARY AND SECONDARY ENCLOSURES*

* **Cross References:** Buildings and building regulations, ch. 6.

Sec. 4-161. Purpose of division.

This division specifies minimum standards for the construction of primary and secondary enclosures that are to be used to keep, harbor or restrain wild animals. If, because of the breeding, history, character or other particular trait, it is the opinion of the animal control officer that these standards are insufficient to restrain any wild animal, he shall report such findings to the director, and issue no permits until standards sufficient to restrain the animal as determined by the director are installed.

Sec. 4-162. Primary enclosures.

(a) *Generally.* Primary enclosures used to restrain and confine the animals specified in this section shall be constructed with the materials and in the manner specified.



- (b) *Tigers and hybrids.* Tigers shall be housed within a primary enclosure constructed in accordance with the following standards:
- (1) *Minimum enclosure area.* A primary enclosure for animals in this category shall contain a minimum of 600 square feet of ground or floor area per animal.
 - (2) *Number of animals permitted.* No more than one male or two females shall be permitted in any one primary enclosure.
 - (3) *Construction standards.*
 - a. Every enclosure must be constructed of not less than nine gauge, steel chainlink fencing attached to not smaller than 2 1/2-inch diameter, schedule 40 steel poles placed at least 30 inches in the ground and anchored in concrete. Poles shall be no more than ten feet apart and shall be of sufficient height to extend to the top of the fencing.
 - b. Fencing shall be placed on the interior side of the steel poles and shall be attached firmly to the poles by means of steel wire ties spaced not more than one foot apart, tied securely around the full circumference of the poles.
 - c. Enclosures with tops or roofs shall have sides with a minimum height of eight feet. Enclosure tops or roofs shall be constructed of not less than 11 gauge, steel chainlink fencing, which shall be attached securely to the enclosure sides and/or horizontal piping or crossbars by means of steel wire ties spaced at not more than three-inch intervals.
 - d. Enclosures without tops or roofs shall have sides with a minimum height of 12 feet. At the top of the enclosure sides, there shall be an overhang of four feet in length, extending inward toward the cage interior, and forming an angle of 45 degrees with the enclosure sides. The overhang shall be constructed of not less than nine gauge, steel chainlink fencing, which shall be attached securely to the enclosure sides and/or horizontal piping or crossbars by means of steel wire ties spaced not more than three inches apart.
 - e. For purposes of structural integrity, no gaps of larger than two inches shall be permitted between roof or top and side fencing, between enclosure poles and entrance gates into the enclosure, and between side fencing and ground or floor level.
 - f. Every enclosure floor or base shall be constructed of concrete or shall be comprised of at least six inches of crushed stone. Where a concrete floor is provided, fencing used for enclosure sides shall be extended into and encased in the concrete to prevent the animal from tunneling out. Where a crushed stone base is provided, the side fencing must be extended four feet below the surface of the ground or secured at ground level by means of a horizontal crossbar or piping. Where side fencing is secured to a horizontal crossbar along the bottom of the enclosure, the fencing must be firmly secured along with steel wire ties spaced not more than three inches apart.



- (4) *Safety doors required.* All primary enclosures shall have double safety doors, which consist of a safety door providing access into a caged area from which entry is provided into the primary enclosure containing the animal by means of another safety door. When human entrance is being made, the outer door must be securely closed and fastened before entrance is made through the inner door. When human entrance is not being made, both the inner and outer doors must be locked by means of chains and padlocks located at the top and bottom of the door.
 - (5) *Separation of animals.* There shall be no common fences between enclosures housing tigers and other animals. If adult male animals are placed in adjacent enclosures, the enclosures shall be constructed of nine gauge, steel chainlink fencing, doubled and spaced at least three feet apart so as to prohibit physical contact between the animals.
 - (6) *Other requirements.* Primary enclosures shall contain a den of retreat to shelter the animals from the weather. The den or retreat shall be constructed of concrete block or treated lumber so as to withstand weatherization and provide ease of cleaning for health reasons. Claw logs shall also be provided, as well as a shelf at least 30 inches wide, eight feet long, and 40 inches high above floor or ground level.
- (c) *Leopards, jaguars and hybrids.* Leopards and jaguars shall be housed within a primary enclosure constructed in accordance with the following standards:
- (1) *Minimum enclosure area.* A primary enclosure for animals in this category shall contain a minimum of 400 square feet of ground or floor area for the first animal and 200 square feet of ground or floor area for each additional animal.
 - (2) *Number of animals permitted.* The number of animals permitted is as prescribed in subsection (b)(2) of this section.
 - (3) *Construction standards.* Construction standards are as prescribed in subsection (b)(3) of this section, except primary enclosures for animals in this category shall all have roofs or tops, and side fencing shall be buried at least four feet below ground level or anchored in a concrete floor to prevent tunneling by the animals.
 - (4) *Safety doors required.* Safety doors are as prescribed in subsection (b)(4) of this section.
 - (5) *Separation of animals.* Separation of animals is as prescribed in subsection (b)(5) of this section.
 - (6) *Other requirements.* Other requirements are as prescribed in subsection (b)(6) of this section, except shelves shall be at least 24 inches wide, eight feet long, and 40 inches above floor or ground level.
- (d) *Servals and hybrids.* Servals shall be housed in a primary enclosure constructed in accordance with the following standards:
- (1) *Minimum enclosure area.* A primary enclosure for animals in this category shall contain a



minimum of 100 square feet of floor or ground area per animal.

- (2) *Number of animals permitted.* The number of animals permitted is as prescribed in subsection (b)(2) of this section.
- (3) *Construction standards.* Construction standards are as prescribed in subsection (b)(3) of this section, except as follows:
 - a. Primary enclosures in this category shall all have roofs or tops.
 - b. Sides and roofs or tops of enclosures shall be constructed of no smaller than 11 1/2 gauge, steel chainlink fencing secured to steel poles not smaller than 1 1/2 inches in diameter.
 - c. Side fencing shall be buried at least 30 inches below ground level or anchored in a concrete floor to prevent tunneling by the animals.
- (4) *Safety doors required.* Safety doors are as prescribed in subsection (b)(4) of this section, except that both the inner and outer doors must have one separate padlock each.
- (5) *Separation of animals.* Separation of animals is as prescribed in subsection (b)(5) of this section, except fencing may be 11 1/2 gauge, steel chainlink fencing.
- (6) *Other requirements.* Other requirements are as prescribed in subsection (b)(6) of this section, except shelves shall be at least 14 inches wide, four feet long and 36 inches high above floor or ground level.
- (e) *Bears and hybrids.* Bears shall be housed within a primary enclosure constructed in accordance with the following standards:
 - (1) *Minimum enclosure area.* A primary enclosure for animals in this category shall contain a minimum of 600 square feet of floor or ground area per animal.
 - (2) *Number of animals permitted.* No more than one male or one female animal shall be permitted in any one enclosure.
 - (3) *Construction standards.* The primary enclosure shall be constructed of solid steel bars at least three-fourths of an inch in diameter, anchored in the ground in at least 30 inches of concrete, spaced no more than four inches apart. Enclosures shall be at least ten feet in height and shall have a top or roof constructed of the same material as the sides. The sides shall be firmly attached to the top or roof and have no gaps. All vertical steel bars shall be connected by means of a crossweld, steel horizontal bar three feet from enclosure top and bottom. Enclosures shall have a floor of concrete, covered with plywood or crushed rock sufficient to protect the animals housed in the enclosure and to prevent tunneling by the animals.



- (4) *Safety doors required.* Safety doors are as prescribed in subsection (b)(4) of this section, except constructed in the same manner and materials as primary enclosures.
- (5) *Separation of animals.* Separation of animals is as prescribed in subsection (b)(5) of this section, except the sides of adjacent enclosures shall be constructed of solid steel bars at least three-fourths of an inch in diameter and anchored in the ground in at least 30 inches of concrete.
- (6) *Other requirements.* Other requirements are as prescribed in subsection (b)(6) of this section, except the requirement for claw logs and shelves.
- (f) *Reptiles, crushing.* Crushing reptiles shall be housed within a primary enclosure constructed in accordance with the following standards:
 - (1) *Minimum enclosure area.* A primary enclosure for animals in this category shall contain a minimum of six cubic feet per reptile; however, the enclosure shall, in any event, be of sufficient size to accommodate the animal and allow for normal growth.
 - (2) *Number of animals permitted.* The number of animals permitted is as prescribed in subsection (b)(2) of this section.
 - (3) *Construction standards.* The primary enclosure may be constructed of wood, metal, glass or fencing material or any combination sufficient to restrain and confine the reptile. Where solid wood, metal and/or glass enclosures are provided, holes shall be provided in the sides for ventilation but shall be small enough to prevent the escape of the animal. Where fencing material is used, the spacing between strands of wire shall be small enough to prevent the escape of the animal. All enclosures must be of such construction as to totally enclose the reptile and prevent the animal from opening the enclosure from within.
 - (4) *Safety doors required.* At least one side of the enclosure must have a window of glass or fencing through which the owner or permittee may see the location of the animal before opening the enclosure. In lieu of a window, one or more sides of the enclosure may be constructed of glass or fencing to allow viewing of the animal. All doors and entrances to the enclosure must be padlocked to contain the reptile and prevent its removal without the owner's or the permittee's permission.

Sec. 4-163. Secondary enclosures.

- (a) *Generally.* Secondary enclosures shall serve as a perimeter fence surrounding all primary enclosures except those for reptiles. The secondary enclosure shall be provided in order to protect the public and the animals by restricting public accessibility to the primary enclosures.
- (b) *Construction standards.* All secondary enclosures shall be constructed of not smaller than 11 1/2 gauge, steel chainlink fencing attached to not smaller than 1 1/2-inch diameter steel poles placed at least 30 inches in the ground and anchored in concrete. Fencing shall be placed on the interior side of the steel poles and shall be attached firmly to the poles by means of steel wire ties spaced not more than one foot apart and which



are tied securely around the full circumference of the poles. Fencing shall be at least eight feet in height and shall be electrified at the bottom and the top of the enclosure by a single insulated wire strand running the full circumference of the enclosure.

(c) *Separation of enclosures.* Secondary enclosures shall not have any common wall with any primary enclosure. The spacing between the primary enclosure, and the secondary enclosure shall be a minimum of six feet.

(d) *Safety doors required.* A safety door shall be provided for secondary enclosures and shall have a separate padlock.

Sec. 4-164. Variation from division provisions.

Variations from this division shall be permitted where, based on initial inspections, it is found that enclosures, with slight modifications, can confine the animals in a safe and humane manner.

Sec. 4-165. Structural integrity to be maintained.

All primary and secondary enclosures shall be designed, constructed and maintained so that no foreseeable event or series of events shall break the structural integrity of the primary and secondary enclosures.



Chapter 5

RESERVED



Chapter 6

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Standards for primary and secondary enclosures for wild animals, § 4-161 et seq.; environment, ch. 10; roads, ch. 20; solid waste management, ch. 22; utilities, ch. 26.

State Law References: Building code council and state building code, G.S. 143-136 et seq.; authority of county to levy taxes for building inspection, G.S. 153A-149(c)(26).

Article I. In General

Secs. 6-1--6-30. Reserved

Article II. Technical Codes

Sec. 6-31. Adoption of technical codes; amendments.

Sec. 6-32. Intent of chapter.

Secs. 6-33--6-50. Reserved.

Article III. Minimum Housing Standards

Sec. 6-51. Purpose.

Sec. 6-52. Finding; purpose.

Sec. 6-53. Definitions.

Sec. 6-54. Minimum standards--Dwellings and dwelling units.

Sec. 6-55. Same--Structural condition.

Sec. 6-56. Same--Basic equipment and facilities.

Sec. 6-57. Same--Ventilation.

Sec. 6-58. Same--Space, use, and location.

Sec. 6-59. Same--Control of insects, rodents and infestations.

Sec. 6-60. Responsibilities of owner and occupants.

Sec. 6-61. Duties of building inspector.

Sec. 6-62. Power of building inspector.

Sec. 6-63. Inspections; duties of owners and occupants.

Sec. 6-64. Procedures for enforcement.

Sec. 6-65. Methods of service of complaints and orders.

Sec. 6-66. In rem action by inspector placarding.

Sec. 6-67. Costs a lien on premises.

Sec. 6-68. Alternative remedies.

Sec. 6-69. Housing appeals board.

Sec. 6-70. Conflict with other provisions.

Sec. 6-71. Violations; penalty.

ARTICLE I.

IN GENERAL

Secs. 6-1--6-30. Reserved

ARTICLE II.

TECHNICAL CODES



Sec. 6-31. Adoption of technical codes; amendments.

(a) There is hereby adopted by reference and incorporated in this chapter the latest and current revisions of each of those certain codes known as and entitled, "Volume I - General Construction Code; Volume I-A - Administration and Enforcement Requirements; Volume I-C - Accessibility Code; Volume II - Plumbing Code; Volume III - Mechanical Code; Volume IV - Electrical Code; Volume V - Fire Prevention Code; Volume VI - Gas Code; Volume VII - Residential; and Volume VIII - Modular Construction." Copies of these codes and all technical codes and standards adopted by reference, shall be filed with, and available for public inspection in the offices of the clerk to the board of county commissioners and the building inspector of the county.

(b) Amendments to codes and standards adopted by reference in this section which are adopted and published by the state building code council shall be effective in the county at the time such amendments become a part of the respective volumes of the state building code.

(Ord. of 10-23-1993, § 1)

Sec. 6-32. Intent of chapter.

(a) It is the intent of this chapter to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property within the jurisdiction of the county.

(b) This chapter shall not be construed to hold the county responsible for any damage to persons or property by reason of the inspection or reinspection authorized in this chapter or failure to inspect or reinspect or the permits issued or denied as provided in this chapter or by reason of the approval or disapproval of any equipment authorized in this chapter.

(Ord. of 10-23-1993, § 2)

State Law References: State building code applicable throughout the state, G.S. 143-138(e).

Secs. 6-33--6-50. Reserved.

ARTICLE III.

MINIMUM HOUSING STANDARDS

Sec. 6-51. Purpose.

(a) The purpose of this article is to serve a need by providing a standard for suitable living conditions within the county. It is not the intention of this article to displace or force inhabitants from occupied dwellings. This standard is a guide aimed at protecting the public's life, health and general welfare in buildings used as habitable dwellings. This protection is provided through the enforcement of this article by agents of the county. The basis for creating this article is to improve substandard living conditions that exist within the county.

(b) The areas of inspections that this article shall address are:

(1) The structural strength of a building;



- (2) Sanitation;
- (3) Plumbing;
- (4) Electrical conditions;
- (5) Adequate light and ventilation;
- (6) Safety to the life and property from fire;
- (7) Heat source; and
- (8) Other hazards of all dwellings or premises used as such.

This article shall apply to all existing housing and to all housing hereafter constructed within the county. This article shall apply to and is inclusive of other municipalities jurisdiction and their extraterritorial zoning jurisdiction.

(Ord. of 10-6-2003, intro.)

Sec. 6-52. Finding; purpose.

(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the county, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary and dangerous and detrimental to the health, safety and morals and otherwise inimical to the welfare of the county. There also exist abandoned structures which constitute health and safety hazards due to the attraction of insects, conditions creating fire hazards, dangerous conditions constituting a threat to children, and frequent use by vagrants.

(b) In order to protect the health, safety and welfare of the residents of the county as authorized by G.S. 160A-19, it is the purpose of the article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444. (Ord. of 10-6-2003, § 1)

Sec. 6-53. Definitions.

Meaning of certain words shall mean that whenever the words "dwelling, dwelling unit, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them by this section, except where the context clearly indicates a different meaning:

Basement means a portion of a dwelling located at least 50 percent underground, having direct access to light and air from windows located above the level of the adjoining ground.



Cellar means a portion of a building located partly or wholly underground, having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, at a cost not in excess of 50 percent of its value, as determined by the findings of the inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by the findings of the inspector.

Dwelling means any building, structure, manufactured mobile home of which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and elimination of insects, rodents or other pests by elimination of their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspectors.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Hearing officer means the county director of planning and inspections or his designee.

Housing appeals board means the county board of adjustment.

Infestation means the presence within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inspector means a building inspector of the county or any agent of the inspector who is authorized by the inspector.

Multiple dwelling means any building containing more than two dwelling units.

Occupant means any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.



Operator means any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Owner means any person who alone, or jointly, or severally with others shall have:

- (1) Title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Charge, care or control of any dwelling unit, as owner or agent of or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner; and such person representing the actual owner shall be bound to comply with the provisions of this article, and rules and regulations adopted pursuant thereto, to the same extent as if they were the owner.

Plumbing means and includes all of the following: supplied facilities and equipment, gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority means any officer who is in charge of any department or branch of the government of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the county.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or the operator.

Rubbish means combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimming, tin cans, metals, mineral matter, glass crockery, and dust.

Supplied means paid for, furnished or provided by, or under the control of, the owner or operator.

Temporary housing means temporary labor camps and migrant labor housing.

Transportable housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 consecutive days.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.



(Ord. of 10-6-2003, § 2)

Cross References: Definitions generally, § 1-2.

Sec. 6-54. Minimum standards--Dwellings and dwelling units.

Every dwelling and dwelling unit used or intended for human habitation except transportable and temporary housing or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 6-55--6-59. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 6-55--6-59.

(Ord. of 10-6-2003, § 3)

Sec. 6-55. Same--Structural condition.

(a) Walls, floors and roofs shall not have rotted, deteriorated or damaged supporting members to a point where the structural integrity would not be reasonably safe for the purpose used.

(b) Foundation, foundation walls, piers or other foundation supports shall not be deteriorated or damaged to a point where the supporting strength would not be safe for the purpose used.

(c) Stairs, porches and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.

(d) Egress; every dwelling unit shall be provided with adequate means of egress as required by the state residential building code (volume VII of the state building code).

(e) The roof, flashing, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be reasonably weatherproof and airtight.

(f) There shall be no chimney or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(g) There shall be no use of the ground for floors or wood floors on the ground.

(Ord. of 10-6-2003, § 4)

Sec. 6-56. Same--Basic equipment and facilities.

(a) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or approved sewage disposal system.

(2) Each dwelling unit must contain the following as required by the state plumbing codes; a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water.



All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

- (3) All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in an operable condition.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) *Heating system.* Every dwelling unit shall have facilities for providing heat in accordance with either subsection (b)(1) or (2) of this section:

- (1) *Central and electric heating systems.* Every dwelling should have facilities provided to heat the dwelling to a temperature of 68 degrees Fahrenheit three feet above the floor level during ordinary winter conditions.
- (2) *Other heating facilities.* Where a central or electric heat is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heat appliances may be connected so as to heat all habitable rooms with minimum temperature of 68 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) *Electrical system.*

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles, connected in such a manner as determined by the National Electrical Code. There shall be installed in every bathroom, water closet, room and laundry room, at least one supplied ceiling or wall-type electric light fixture.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair and safe. All repairs, replacements and additions shall be installed in accordance with the National Electrical Code.

(Ord. of 10-6-2003, § 5)

Sec. 6-57. Same--Ventilation.

(a) *Habitable rooms.* Except when provided with mechanical ventilation, every habitable room shall have an operable window, the size of which, shall be not less than eight percent of the floor area of such room.

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



system.

(Ord. of 10-6-2003, § 6)

Sec. 6-58. Same--Space, use, and location.

(a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code (volume II of the state building code) as follows:

- (1) Every dwelling unit shall contain at least 150 square feet of habitable floor area. Other habitable rooms shall have an area of not less than 70 square feet.
- (2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes shall contain at least 70 square feet of floor area. Every kitchen shall have not less than 50 square feet of floor area. Habitable rooms, except kitchens, shall be not less than seven feet in any horizontal dimension.

(b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(c) *Floor area calculation.* Floor area calculation shall be as required by the state residential building code (volume VII) and as follows: floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area, the floor area of any part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(Ord. of 10-6-2003, § 7)

Sec. 6-59. Same--Control of insects, rodents and infestations.

(a) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. If central heating and air conditioning is provided then no screens are required.

(b) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupancy of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Wherever infestation is caused by failure of the owner to maintain a dwelling in a reasonably rodent and insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more dwelling units, extermination shall be the responsibility of the owner.

(c) *Garbage storage and disposal.* Every dwelling unit in a multiple unit facility shall be supplied with an approved garbage disposal facility.



(Ord. of 10-6-2003, § 8)

Sec. 6-60. Responsibilities of owner and occupants.

(a) Every owner of a dwelling shall be responsible for maintaining in a clean and sanitary condition the dwelling and premises thereof.

(b) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit, however, the owner is ultimately responsible for the care of facilities, equipment and structure.

(Ord. of 10-6-2003, § 9)

Sec. 6-61. Duties of building inspector.

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and power herein prescribed:

- (1) Upon a request of a public authority, the head of household, or written request of five unrelated residents of the county, the building inspector shall investigate the dwelling and the dwelling conditions in order to determine if the dwelling unit is unfit for human habitation;
- (2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and
- (4) To perform such other duties as may be herein prescribed.

(Ord. of 10-6-2003, § 10)

Sec. 6-62. Power of building inspector.

The building inspector is authorized to exercise such power as provided by state statutes.

(Ord. of 10-6-2003, § 11)

Sec. 6-63. Inspections; duties of owners and occupants.

For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.



(Ord. of 10-6-2003, § 12)

Sec. 6-64. Procedures for enforcement.

(a) *Preliminary investigation; notice hearing.* Whenever a request is filed with the inspector by a public authority, head of household, or at least five unrelated residents of the county charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection that any dwelling, dwelling unit or rooming unit is unfit for human habitation, he shall, if his preliminary investigation disclosed a basis for such charges, issue and cause to be served upon the owner of and parties charges containing a notice that a hearing will be held before the hearing officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or part owner of any property in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to the party initiating the complaint relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the hearing officer.

(b) *Procedures after hearing.* After such notice and hearing, the inspector shall state in writing his determination whether such dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

- (1) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs or alterations and improvements have been made.
- (2) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(c) *Failure to comply with order.*

- (1) *In persona remedy.* If the owner of any deteriorated dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the governing body at its next regular meeting a resolution directing the county attorney to petition the superior court for an order directing such owner to comply with the order of the inspector as authorized by G.S. 160A-446(g).



- (2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition to placard such dwelling as provided by G.S. 160A-443 and section 6-66.

(d) *Appeals from order of inspector.* An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the housing appeals board (the board) a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this section.

- (1) The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have power also in passing upon appeals, or in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case, to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (2) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction, restraining the inspector pending a final disposition of the case, as provided by G.S. 160A-446(f).
(Ord. of 10-6-2003, § 13)



Sec. 6-65. Methods of service of complaints and orders.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, circulating in the county. Where service is made by publication, a notice of the pending proceedings shall be posted in conspicuous place on the premises affected by the complaint or order.

(Ord. of 10-6-2003, § 14)

Sec. 6-66. In rem action by inspector placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provision of this article, and upon adoption by the county board of commissioners ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 6-64(c) of this article, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article or to be vacated and closed and removed or demolished, as directed by the ordinance of the board of commissioners and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index as provided by G.S. 160-433(5).

(Ord. of 10-6-2003, § 15)

Sec. 6-67. Costs a lien on premises.

As provided by G.S. 160a-443(6), the amount of the cost of any repairs, alterations or improvements or vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to section 6-66, shall be a lien against the real property upon which cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as provided by G.S. 160A-10.

(Ord. of 10-6-2003, § 16)

Sec. 6-68. Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and section 6-69, and the endorsement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided in this article or in other ordinances or laws.

(Ord. of 10-6-2003, § 17)



Sec. 6-69. Housing appeals board.

There is hereby created a housing appeals board to which appeals may be taken for decisions or orders of the inspector, as provided by section 6-64(d). The board shall consist of the county board of adjustment. The board shall have the power to elect its own officers, to fix the times and places of its meeting, to adopt necessary rules or procedures and to adopt other rules and regulations for the proper discharge of its duties. The board shall perform the duties prescribed in section 6-64(d) and shall keep an accurate record of all its proceedings.

(Ord. of 10-6-2003, § 18)

Sec. 6-70. Conflict with other provisions.

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

(Ord. of 10-6-2003, § 19)

Sec. 6-71. Violations; penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon the inspection duly made and served as provided in this article, within the time specified in such order, and for its repair, alteration or improvement or its vacation and such closing, and each day that such a misdemeanor exists constitutes a separate offense as provided by G.S. 14-4.

(b) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

(Ord. of 10-6-2003, § 20)



Chapter 7

RESERVED



Chapter 8

EMERGENCY MANAGEMENT AND SERVICES*

* **Cross References:** Any ordinance setting fees, charges or rates for any county service saved from repeal, § 1-10(19); administration, ch. 2; law enforcement, ch. 16.

State Law References: Emergency Medical Services Act, G.S. 143-507 et seq.; North Carolina Emergency Management Act, G.S. 166A-1 et seq.

Article I. In General

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ARTICLE I.

IN GENERAL



Secs. 8-1--8-30. Reserved.

ARTICLE II.

STATE OF EMERGENCY

Sec. 8-31. Restrictions authorized.

(a) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the county or any part thereof, or threatening damage to or destruction of property, the chair of the county board of commissioners is hereby authorized and empowered under G.S. 14-288.13 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, order to more effectively protect the lives and property of people within the county, to place in effect any or all of the restrictions authorized in this article.

(c) The chair is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the county and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the county.
(Ord. of 5-5-1997, § 1)

Sec. 8-32. Proclamation imposing prohibitions and restrictions.

(a) The chair of the county board of commissioners by proclamation may impose the prohibitions and restrictions specified in this article in the manner described. The chair may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The chair shall recite his findings in the proclamations.

(b) The proclamation shall be in writing. The chair shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the county courthouse. The chair shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.
(Ord. of 5-5-1997, § 2)

Sec. 8-33. Curfew.



(a) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The chair may exempt from some of all of the curfew restrictions classes of people whose exemption the chair finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the chair by proclamation removed the curfew.
(Ord. of 5-5-1997, § 3)

Sec. 8-34. Restrictions on possession, consumption, or transfer of intoxicating liquor.

The proclamation may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the county described in the proclamation. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

(Ord. of 5-5-1997, § 4)

Sec. 8-35. Restrictions on possession, transportation, and transfer of dangerous weapons and substances.

(a) The proclamation may prohibit the transportation or possession of one's own premises, or the sale or purchase of any dangerous weapon or substance. The chair may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) The term "dangerous weapon or substance" means:

- (1) Any deadly weapon, ammunition, incendiary devise, explosive, gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.
- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so destructively used.
- (3) Any part or ingredient in any instrument or substance included in this subsection (b).

(c) Any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

(Ord. of 5-5-1997, § 5)



Cross References: Carrying of concealed handguns on county property, § 18-1.

Sec. 8-36. Territorial applicability of article provisions.

This article shall not apply within the corporate limits of any municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless the municipality by resolution consents to its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the county.

(Ord. of 5-5-1997, § 14)

Secs. 8-37--8-70. Reserved.

ARTICLE III.

PUBLIC SAFETY TELEPHONE SERVICE

Sec. 8-71. 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:

Exchange access facility means the access from a particular telephone subscriber's premises to a telephone system of a service supplier. Exchange access facilities include: Service supplier access lines, PBX trunks and centrex network access registers, all as defined by tariffs of telephone company as approved by the state utilities commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or Wide Area Telecommunications Services (WATS), Foreign Exchange (FX) or incoming only lines.

911 system or 911 service means an emergency system that provides the user of a public telephone system, the ability to reach a public safety answering point by dialing the digits 911. The term "911 system" or "911 service," as used in this article includes "enhanced 911 service" which means an emergency telephone system that provides the user of the public telephone system with 911 service and in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographic location from which the call originated and provides the capability for automatic number identification and automatic location identification.

911 charge means a telephone customer contribution to the county for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, network charges and expenses incidental to establishing and operating the 911 system, consistent with the requirements of state law.

Public Safety Telephone Act means G.S. 62A-1 et seq.

Service supplier means a person or entity who provides exchange telephone service to a telephone subscriber.



Telephone subscriber or subscriber means a customer, person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

(Ord. of 8-5-1991, § 1)

Cross References: Definitions generally, § 1-2.

Sec. 8-72. Purpose of article.

The purpose of this article is to establish a public safety telephone service in the county and to provide the financial resources needed to purchase, install, operate, and maintain it. This program is hereby undertaken in order to reduce the response time of important public safety agencies, thereby providing improved emergency medical, law enforcement, and fire protection services.

(Ord. of 8-5-1991, § 2)

Sec. 8-73. Authority of article provisions.

The authority for the enactment of this article is found at chapter 587 of the 1989 Session Laws of the General Assembly of North Carolina. This state enabling statute not only authorizes local governments to establish public safety telephone services, but encourages them to do so.

(Ord. of 8-5-1991, § 3)

Sec. 8-74. Jurisdiction of article provisions.

The jurisdiction of this article is the entire corporate limits of the county.

(Ord. of 8-5-1991, § 4)

Sec. 8-75. Revenues.

(a) There is imposed a monthly 911 service charge, in the amount specified in this section, upon each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the area served by the 911 service in the county.

(b) The monthly 911 charge for each exchange access facility subscribed to by telephone subscriber whose exchange access lines are located in the county which are in the area served by the 911 service shall be set from time to time, and a schedule of such fees is on file in the county offices.

(c) Service suppliers will be responsible for collecting the 911 charges as provided by the Public Safety Telephone Act. Specifically, the service supplier is hereby authorized to retain a one percent administrative fee as compensation for collecting the charges. Further, the county acknowledges that the service supplier shall not be required to initiate formal enforcement of collection but reserves those rights granted to the county to engage in formal collection enforcement activities as specified by state law.

(Ord. of 8-5-1991, § 5)



Sec. 8-76. Disbursements and expenditures.

All expenditures and disbursements will be made consistent with the requirements of chapter 587 of the 1989 Session Laws of the General Assembly of North Carolina.
(Ord. of 8-5-1991, § 6)

Secs. 8-77--8-110. Reserved.

ARTICLE IV.

FRANCHISES FOR AMBULANCE SERVICES*

* **State Law References:** Authority to franchise ambulance services, G.S. 153A-250.

Sec. 8-111. 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:

Ambulance means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this state of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.

Ambulance attendant means an individual who has completed a training program in emergency medical care and first air approved by the state department of human resources and has been certified as an ambulance attendant by the state department of human resources, office of emergency medical services.

Ambulance provider means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

Approved means approved by the state medical care commission pursuant to the latter's rules and regulations promulgated under G.S. 143B-165.

Council means the county emergency medical services council.

County means the county board of commissioners or their designated representative.

Dispatcher means a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies and emergency medical facilities of any existing or threatened emergency.

Emergency and emergency transportation service means the use of an ambulance, its equipment and personnel to provide medical care and transportation of a patient who is in need of immediate medical treatment



in order to prevent loss of life or further aggravation or physiological or psychological illness or injury.

Emergency medical technician (EMT) means an individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for Emergency Medical technicians as defined by the United States Department of Transportation and has been certified as an emergency medical technician by such department.

First responder means an organization with personnel trained, in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

Franchise means a permit issued by the county to a person for the operation of an ambulance service. The term "franchisee" shall mean any person having been issued a franchise by the county for the operation of an ambulance service.

License means any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the state.

Nonemergency transportation services means the operation of an ambulance for any purpose other than transporting emergency patients.

Operator means a person in actual physical control of an ambulance which is in motion or which has the engine running.

Owner means any person or entity who owns an ambulance.

Patient means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.

Person means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.

Rescue means situations where the victim cannot escape an area through the normal exit or under his own power.

Secondary ambulance provider means the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.
(Ord. of 9-8-1987, § I)

Cross References: Definitions generally, § 1-2.

Sec. 8-112. Required.

- (a) No person either as owner, agent or otherwise, shall furnish, operate, conduct, maintain,



advertise, or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or nonemergency transportation of patients within the county unless the person holds a valid permit for each ambulance used in such business or service issued by the state department of human resources, office of emergency medical services, and has been granted a franchise for the operation of such business or service by the county pursuant to this article.

(b) No primary personnel shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the county unless he holds a currently valid certificate as an ambulance attendant, emergency medical technician, EMT-Intermediate or EMT-Paramedic issued by the state department of human resources, office of emergency medical services.

(c) No person under 18 years of age shall be allowed to drive, attend a patient, be a passenger, or operate any equipment in conjunction with any ambulance within the county, unless the ambulance provider holds a valid policy, approved by the county, concerning the limited activities of these members and special provisions that provide insurance coverage for the member, ambulance provider and the county.

- (1) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the services franchised by the county are insufficient or unable to cope;
- (2) Any entity operated from a location or headquarters outside of the county in order to transport patients who are picked up beyond the limits of the county, to facilities located within the county, or to pick up patients within the county for transporting to locations outside the county;
or
- (3) Ambulances owned and operated by an agency of the United States government.

(Ord. of 9-8-1987, § II)

Sec. 8-113. Application.

Application for a franchise to operate ambulances in the county shall be considered and acted upon by the board of commissioners of the county at its annual January meeting and shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the county and shall contain:

- (1) The name and address of the ambulance provider and of the owner of the ambulances.
- (2) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- (3) A resume of the training and experience of the applicant in the transportation and care of patients.



- (4) A full description of the type and level of service to be provided including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched. An audited financial statement of the applicant as the same pertains to the operations in the county; such financial statement to be in such form and in such detail as may be required by the county.
 - (5) A description of the applicant's capability to provide 24-hour coverage, seven days per week for the district covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within such district.
 - (6) Provide an annual audited financial statement of the applicant as the same pertains to the operations in the county; such financial statement to be in such form and in such detail as may be required by the county.
 - (7) Provide certification from the Internal Revenue Service for nonprofit and charitable donation status.
 - (8) Provide federal employer identification certification.
 - (9) Provide emergency medical services provider certification.
 - (10) Any information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance services in the county in accordance with the requirements of state laws and the provisions of this article.
- (Ord. of 9-8-1987, § III; Ord. of 10-3-2005(1), § 1)

Sec. 8-114. Granting.

(a) Prior to accepting applications for the operation of an ambulance service, the board of commissioners may designate specific service areas as franchise districts. Such districts will be established using criteria that includes geographic size, road access, the location of existing medical transportation services, population, and response time. The county shall have the authority to redistrict or rearrange existing districts at any time at their discretion based on request of the EMS advisory council.

(b) An applicant may apply at the annual January meeting of the board of commissioners for a franchise to operate either emergency transportation service or nonemergency transportation service, or both. If both types of service are to be provided, separate applications must be made for each type.

(c) Upon receipt of an application for a franchise, the county shall schedule a time and place for hearing the applicant. Within 30 days after hearing, the county shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.

(d) A franchise may be granted if the county finds that:

(1) The applicant shows a reasonable effort to meet state standards and standards outlined in this



article.

- (2) The proposed service will fit within the existing service so as not to adversely affect the level or service or operations of other franchisees to render service.
- (3) A need exists for the proposed service in order to improve the level of ambulance services available to residents of the county and that this is a reasonable and cost effective manner of meeting the need.

(Ord. of 9-8-1987, § IV; Ord. of 10-3-2005(1), § 1)

Sec. 8-115. Term.

(a) The county may issue a franchise hereunder to an ambulance provider, to be valid for a term to be determined by the county, provided that either party as its option, may terminate the franchise upon 60 days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.

(b) Upon suspension, revocation or termination of a franchise granted under this article, such franchised ambulance service immediately shall cease operations. If the suspended ambulance service does not regain the franchise, all property, buildings, vehicles and supplies purchased by county funds shall revert back to the county and subsequently be used by the county to service the affected area.

(c) Upon suspension revocation or termination of a driver's license, the franchisee shall not permit the individual to drive an ambulance. Upon suspension, revocation or termination of an attendant's certification or emergency medical technician certificate, the franchisee shall not permit the individual to provide medical care in conjunction with the ambulance service.

(d) Each franchised ambulance service shall comply at all times with the requirements of this article, the franchise granted under this article, and all applicable state and local laws relating to health, sanitation, safety, equipment, and ambulance design and all other laws and ordinances.

(e) Prior approval of the county shall be required where ownership or control of more than ten percent of the right of control of franchisee is acquired by a person or group of persons acting in concert, none of whom own or control ten percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the county shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the county.

(f) Any change of ownership of a franchised ambulance service without the approval of the county shall terminate the franchise and shall require a new application and a new franchise and conformance with all requirements of this article as upon original franchising.

(g) No franchise may be sold, assigned, mortgaged, or otherwise transferred without the approval of the county; and a finding of conformance with all requirements of this article as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application and all records



relating to its maintenance and operation, as such, shall be open to inspection by the state, the county, or their designated representatives.

(h) A franchise certificate may not be defaced, removed, or obliterated.
(Ord. of 9-8-1987, § VI)

Sec. 8-116. Standards for drivers and attendants.

Standards for drivers and attendants as developed by the state medical care commission as requirements for certification of ambulance attendants and emergency medical technicians pursuant to G.S. 131E-155 et seq., and G.S. 143-507 et seq., and shall be applied and such provisions are incorporated in this section by reference.
(Ord. of 9-8-1987, § VII)

Sec. 8-117. Standards for vehicles and equipment.

Vehicle and equipment standards as developed by the state medical care commission pursuant to G.S. 131E-155 et seq., and G.S. 143-507 et seq. shall be applied, and such provisions are incorporated in this section by reference.
(Ord. of 9-8-1987, § VIII)

Sec. 8-118. Standards for communications.

(a) Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the county to each hospital's emergency department in the county in which the ambulance is based. Each ambulance vehicle shall be equipped with two-way radio communications capabilities compatible with all hospitals emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the state. Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the county.

(b) Each ambulance provider shall maintain current authorizations or Federal Communication Commission licenses for all frequencies and radio transmitters operated by that provider. Copies of all authorizations and licenses shall be on display and available for inspection per Federal Communication Commission's Rules and Regulations.

(c) Each base of operations must have at least one open telephone line. Telephone numbers must be registered with each law enforcement agency and communications center in the county.

(d) Each ambulance shall be dispatched from the county dispatch center. Where calls are received by other means the responding agency must advise the communication center.
(Ord. of 9-8-1987, § IX)

Sec. 8-119. Insurance.

No ambulance franchise shall be issued under this article, nor shall such franchise be valid after



issuance, nor shall any ambulance be operated in the county unless the franchisee has at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the state, for each and every ambulance owned and or operated by or for the ambulance service providing for the payment of damages:

- (1) In the sum of \$1,000,000.00 for injury to or death of individuals in accidents resulting from any cause for which the owner of such vehicle would be liable on account or liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agency.
- (2) In the sum of \$300,000.00 for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the state or as approved by the county.
- (3) Each franchisee shall maintain insurance coverage for malpractice, errors, and omissions in the amount of \$1,000,000.00 for each person and an overall coverage to include the agency, employees and the county.

(Ord. of 9-8-1987, § X)

Sec. 8-120. Recordkeeping.

Each franchisee shall maintain the following records:

- (1) *Record of dispatch.* The record of dispatch shall show the time the call was received, the time the ambulance was dispatched, the time it arrived on the scene, the time it arrived at its destination, the time spent in service, and the time it returned to base.
- (2) *Trip record.* The trip record shall state all of the information required in subsection (1) of this section, in addition to information on a form approved by the county. The trip record shall be so designed as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges paid.
- (3) *Daily report log.* The daily report log shall be maintained for the purpose of identifying more than one person transported in any one day.
- (4) *Daily driver and attendant checklist and inspection report.* The daily driver and attendant checklist and inspection report shall list the contents and the description of operations for each vehicle, signed by the individual verifying vehicle operations and equipment.

(Ord. of 9-8-1987, § XI)

Sec. 8-121. Rates and charges.

(a) No ambulance service franchised by the county shall be permitted to collect rates on emergency or nonemergency calls without prior approval of the county.

(b) Each franchisee shall submit a schedule of rates to the county for approval and shall not charge more nor less than the approved rates without specific approval by the county.



(Ord. of 9-8-1987, § XII)

Sec. 8-122. Enforcement of article provisions.

The office of the county manager shall be the enforcing agency for the regulations contained in this article. Such office will:

- (1) Receive all franchise proposals from potential providers.
- (2) Study each proposal for conformance to this article.
- (3) With the approval of the council, recommend to the board of commissioners the award of the franchises to the applicants submitting the best proposals.
- (4) Inspect the premises, vehicles, equipment, and personnel of franchisees to ensure compliance to this article and perform any other inspections that may be required.
- (5) With the approval of the council, recommend to the board of commissioners the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this article; and recommend the imposition of misdemeanor or civil penalties as provided therein.
- (6) Ensure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
- (7) Receive monthly reports from ambulance services and consolidate the same into a quarterly summary for review by the council and the county.
- (8) Receive complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions; review the complaint with the council; and obtain corrective action with the approval of the council.
- (9) With the approval of the council, recommend improvements to the county which will ensure better medical transportation.
- (10) Maintain all records required by this article and other applicable county regulations.
- (11) Perform such of the functions described in this section as may be requested by any municipality within the county.
- (12) Serve as staff to the county emergency medical services council on all matters that pertain to the council.

(Ord. of 9-8-1987, § XIII)

Sec. 8-123. Inspections.



The county may inspect a franchisee's records, premises, and equipment at any time in order to ensure compliance with this article and any franchise granted under this article.
(Ord. of 9-8-1987, § XIV)

Sec. 8-124. County emergency medical services advisory council.

(a) *Created.* There is hereby created the county emergency medical services advisory council whose membership shall be appointed by the board of county commissioners.

(b) *Responsibilities and duties.* The council shall have the responsibility and duty of advising the emergency services director on matters relating to the enforcement of this article as specified in section 8-122 and shall develop and recommend for approval by the board of county commissioners such standards of care, policies, procedures, and actions which will maintain and improve the quality of emergency medical services for the residents of the county.

(c) *Composition.* Membership on the council shall consist of:

- (1) One representative from the county commissioners;
- (2) The county manager or designee;
- (3) Emergency services coordinator;
- (4) Administrator of Heritage Hospital or designee;
- (5) Physician, director of Heritage Emergency Service/Advanced Life Support;
- (6) Physician affiliated with local hospital in the county offering 24-hour emergency service;
- (7) One representative from each franchise provider of ambulance service within the county.

(d) *Voting.* All members of the council shall have full and equal voting rights on matters to be considered by the council with the exception of:

- (1) The director of emergency services of the county who shall serve as staff and act as chair until a chair from the membership is appointed by the board of county commissioners.
- (2) Representatives from the franchised providers when the council considers matters relating to the granting of franchises and/or reviewing complaints from the public and investigations regarding franchised services. Representatives from franchised services shall have full and equal voting rights on all other matters not excluded by this subsection.

(Ord. of 9-8-1987, § XV)

Cross References: Boards, commissions and committees, § 2-121 et seq.

Sec. 8-125. Amendment or expansion of article.



The board of commissioners of the county may, through appropriate actions, amend or expand this article to include other emergency departments or agencies as deemed necessary.
(Ord. of 9-8-1987, § XVI)



Chapter 9

RESERVED



Chapter 10

ENVIRONMENT*

* **Cross References:** Animals, ch. 4; wild or exotic animals, § 4-131 et seq.; buildings and building regulations, ch. 6; roads, ch. 20; solid waste management, ch. 22; utilities, ch. 26.

State Law References: Pollution control and environment, G.S. 113A-1 et seq.

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Sec. 10-32. Administration.

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Sec. 10-37. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirement.

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Article III. Noise

Sec. 10-81. Prohibited acts or noises.

Sec. 10-82. Penalty for violation of article.

ARTICLE I.

IN GENERAL

Sec. 10-1. Smoking.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Smoking means the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

(b) *Prohibited in county buildings.* It shall be unlawful for any person to smoke in any building or



facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the county, except those areas exempted by subsection (c) of this section.

(c) *Exemptions.* This section shall not apply to the following:

- (1) Designated lounges for county employees;
- (2) The county jail;
- (3) The lower and upper lobbies of the county courthouse;
- (4) The lobby of the auditorium located on the first floor of the county administrative building; and
- (5) The auditorium located on the first floor of the county administrative building when the representative designated by the agency or group holding a meeting, function, or other activity pursuant to the "Guidelines For Use Of Edgecombe County Administrative Building Auditorium" authorizes or permits smoking during the meeting, function or other activity being sponsored by the agency, department or group authorized to use the auditorium pursuant to such guidelines.

(d) *Penalty.* Violation of this section shall constitute a misdemeanor punishable in accordance with section 1-7.
(Ord. of 10-3-1993, §§ 1--4; Ord. of 1-3-1994, § 1)

Secs. 10-2--10-30. Reserved.

ARTICLE II.

ABANDONED AND JUNKED MOTOR VEHICLES*

* **State Law References:** Authority to prohibit, remove and dispose of abandoned and junked motor vehicles, G.S. 153A-132.

Sec. 10-31. Statement of policy.

The board of commissioner has found it necessary and desirable to promote or enhance:

- (1) The quality of attractiveness and aesthetic appearance of the county;
- (2) The protection of property values throughout the county;
- (3) The preservation of the livability and attractiveness of neighborhoods;
- (4) The promotion of tourism, conventions, and other opportunities for economic development for the county;



- (5) The attractiveness of the county's thoroughfares and commercial roads which present the primary public visibility to visitors and to ensure to passersby of the county; and
- (6) The promotion of the comfort, health, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

Sec. 10-32. Administration.

The county sheriff's department and county zoning enforcement officers shall be responsible for the administration and enforcement of this article. The county sheriff's department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the county over which it has any authority, and on property owned by the county. The county zoning enforcement officers shall be responsible for administering the removal and disposition of "abandoned," "nuisance" or "junked motor vehicles" located on private property. The county may contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of officers of the county sheriff's department in enforcing other laws or in otherwise carrying out their duties.

Cross References: Administration, ch. 2.

Sec. 10-33. 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:

Abandoned vehicle means (as authorized and defined in G.S. 153A-132) one that is left:

- (1) Upon a public street or highway in violation of the law or ordinance prohibiting parking;
- (2) On a public street or highway for longer than seven days;
- (3) On property owned or operated by the county for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Authorizing official means the county zoning enforcement officer designated to authorize the removal of vehicles under the provisions of this article.

Motor vehicle or *vehicle* means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Junked motor vehicle means (as authorized and defined in G.S. 153A-132.2) a vehicle that does not display a current license plate lawfully upon that vehicle and that:



- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.00.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the county board of commissioners.

Cross References: Definitions generally, § 1-2.

Sec. 10-34. Abandoned vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave for allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the county zoning enforcement officer may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Sec. 10-35. Nuisance vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle,



or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the county zoning enforcement officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

Sec. 10-36. Junked motor vehicle regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located, to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful to abandon a junked vehicle or to have a junked motor vehicle, on the premises of public or private property.

(c) Upon investigation, the county zoning enforcement officer may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, health, happiness and emotional stability of area residents.

Sec. 10-37. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirement.

(a) Except as set forth in section 10-38, an abandoned, nuisance or junked vehicle, which is to be removed, shall be towed or removed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the county on a specified date. The notice shall state that the vehicle will be removed by the county on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.



(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the board of commissioners in writing, heard at the next regularly scheduled meeting of the board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Sec. 10-38. Exceptions to prior notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for proper action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice includes:

- (1) Vehicles abandoned on streets or highways. For vehicles left on public streets and highways over which the county has authority, the board of commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
 - a. Obstructing traffic;
 - b. Parked in violation of an ordinance prohibiting or restricting parking;
 - c. Parked in a no-stopping or standing zone;
 - d. Parked in loading zones;
 - e. Parked in bus zones; or
 - f. Parked in violation of temporary parking restriction imposed by ordinances.
- (2) Other abandoned or nuisance vehicles: With respect to abandoned or nuisance vehicles left on county-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 10-39. Removal of vehicle; post-towing notice requirements.

- (a) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as



directed by the county, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the county. Whenever such a vehicle is removed, the county official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) The county shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1)--(a)(5) of this section, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

(c) If the vehicle is registered in the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing county official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (a)(1)--(a)(5) of this section.

Sec. 10-40. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11, as amended.

Sec. 10-41. Redemption of vehicle during proceedings.

At any state in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying a towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.



Sec. 10-42. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the county or tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in coordination with the county and in accordance with G.S. 44A-1 et seq.

Sec. 10-43. Conditions on removal of vehicle from private property.

As a general policy, the county will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the county from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the county zoning enforcement officer. The county may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the county against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

Sec. 10-44. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article.

Sec. 10-45. Exception.

Nothing in this article shall apply to any vehicle which is:

- (1) Located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq.;
- (2) In an enclosed building;
- (3) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (4) In an appropriate storage place or depository maintained in a lawful place and manner by the county.

Sec. 10-46. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the county any vehicle which has been impounded pursuant to the provisions of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

Sec. 10-47. Assessment of costs.



The property owner shall be assessed the cost of vehicle removal and/or storage incurred by the county.
(Ord. of 9-9-1996, § 1)

Secs. 10-48--10-80. Reserved.

ARTICLE III.

NOISE*

* **State Law References:** Authority to regulate noise, G.S. 153A-133.

Sec. 10-81. Prohibited acts or noises.

(a) It shall be unlawful for any person to create, assist in creating, permit, continue or permit continuance of any unreasonably loud, disturbing or unnecessary noises in the county, or to produce or emit noise or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten any person.

(b) The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive: The playing of any radio, phonograph or other sound reproducing instrument or musical instrument or the production or emission of noises or amplified speech, music or other sounds in such a manner or with such volume, as to tend to annoy or disturb the quiet, comfort or repose of any person or to frighten any person.

(Ord. of 11-3-1980, § 1)

Sec. 10-82. Penalty for violation of article.

Violation of this article shall be a misdemeanor and punishable as provided in G.S. 14-4.
(Ord. of 11-3-1980, § 2)



Chapter 11

RESERVED



Chapter 12

FACILITIES*

* **Cross References:** Administration, ch. 2.

State Law References: Authority to adopt ordinances concerning the use of county property, G.S. 153A-169, 153A-170.

Sec. 12-1. Purpose of chapter.

Sec. 12-2. Administration office complex defined.

Sec. 12-3. Grounds of county administration building.

Sec. 12-4. Meeting rooms.

Sec. 12-5. Approved building uses.

Sec. 12-6. Use of grounds.

Sec. 12-7. Approval procedure.

Sec. 12-8. Conditions of use.

Sec. 12-9. Exceptions.

Sec. 12-1. Purpose of chapter.

The purpose of this chapter is to define appropriate usage of the administration office building meeting rooms, auditorium, and grounds and the procedure for obtaining the use of them.

(Ord. of 12-1-2000, § 1)

Sec. 12-2. Administration office complex defined.

The administrative office complex is defined as all of the interior space within the county administration building identified as 201 St. Andrew Street, Tarboro, North Carolina.

(Ord. of 12-1-2000, § 2)

Cross References: Definitions generally, § 1-2.

Sec. 12-3. Grounds of county administration building.

The grounds of the county administrative building are described as follows: All the property bordered by St. Andrew, St. Patrick, and Granville Streets.

(Ord. of 12-1-2000, § 3)

Sec. 12-4. Meeting rooms.

The following meeting rooms are covered under this chapter: Conference Room 260, Auditorium, and Commissioners' Room.

(Ord. of 12-1-2000, § 4)

Sec. 12-5. Approved building uses.

The following are approved building uses:



- (1) Any meeting or class called and conducted by a staff member in the conduct of county business which may involve other staff members or members of the public or a combination thereof.
- (2) Any meeting called and/or participated in by the board of commissioners or an official board or commission of the county as appointed by the commissioners in the conduct of county business.
- (3) Any meeting called by a government agency for the purpose of conducting a public hearing for the citizenry of the county.

(Ord. of 12-1-2000, § 5)

Sec. 12-6. Use of grounds.

The use of the grounds of the administration building by parties other than those on official business is prohibited without specific permission of the county manager. In granting permission for any such use, the county manager will ensure that such use will not interfere with the free and orderly passage of persons desiring to enter, or exit, the building, nor be disruptive to conducting the normal and orderly course of business within the facility or on the grounds.

(Ord. of 12-1-2000, § 6)

Sec. 12-7. Approval procedure.

Requests for meeting rooms or grounds must be made by contacting the county manager's office and providing the following information:

- (1) Person or group requesting use;
- (2) Purpose of meeting or assembly;
- (3) Number of attendees;
- (4) Estimated number of vehicles;
- (5) The date requested;
- (6) The time of day requested; and
- (7) Duration of the meeting.

(Ord. of 12-1-2000, § 7)

Sec. 12-8. Conditions of use.

Permission for use of county facilities is conditioned upon the following:

- (1) The county manager's office shall be notified of any changes in the information given as required in section 12-7.



- (2) The use of a meeting room without a prior reservation shall be pre-empted by a reservation.
- (3) Meetings running longer than the requested reservation time shall be pre-empted by the next reservation when there is a conflict.
- (4) A responsible person be designated to clear the room of meeting materials, return chairs to the table, turn off lights, remove food, drinks and trash, etc.
- (5) When using a meeting room after hours, one person shall be held responsible for ensuring that the building is properly locked and the lights are turned off.
- (6) The grounds shall be cleaned of any debris or any other objects that were placed upon them for the purpose for which the grounds were reserved.
- (7) In cases where multiple meetings are requested for concurrent time periods where more than 20 vehicles are expected, the responsible parties will be required to make special arrangements for parking so as not to interfere with customer or employee parking space availability.

(Ord. of 12-1-2000, § 8)

Sec. 12-9. Exceptions.

Requests for uses, which are not clearly included in section 12-5, may be submitted to the county manager for his consideration. In giving such consideration, the manager must determine if the meeting is clearly consistent with county policies, is of importance to the entire community, involves public nonprofit organizations, and such other factors as deemed appropriate. The decision of the county manager is deemed final unless reversed by a majority of the county commissioners meeting in regular or special sessions.

(Ord. of 12-1-2000, § 9)



Chapters 13--15

RESERVED



Chapter 16

LAW ENFORCEMENT*

* **Cross References:** Administration, ch. 2; emergency management and services, ch. 8; offenses and miscellaneous provisions, ch. 18.

State Law References: County law enforcement and confinement facilities, G.S. 153A-211 et seq.

Article I. In General

Secs. 16-1--16-30. Reserved.

Article II. Detention Center

Division 1. Generally

Sec. 16-31. Rules.

Secs. 16-32--16-50. Reserved.

Division 2. Medical Policy and Plan for Inmates

Sec. 16-51. Purpose of division.

Sec. 16-52. Receiving screen.

Sec. 16-53. Emergency care.

Sec. 16-54. Nonemergency case.

Sec. 16-55. Inmate transportation.

Sec. 16-56. Responsibility for medical cost.

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Article III. Law Enforcement Training Facility

Sec. 16-61. Law enforcement training facility defined.

Sec. 16-62. Control and use of law enforcement training facility.

Sec. 16-63. Control and use of building and surrounding areas.

ARTICLE I.

IN GENERAL

Secs. 16-1--16-30. Reserved.

ARTICLE II.

DETENTION CENTER*

* **State Law References:** County confinement facilities, G.S. 153A-218.

DIVISION 1.

GENERALLY



Sec. 16-31. Rules.

- (a) *Adoption.* The following rules and regulations for the county detention center are adopted:
- (1) It shall be unlawful to trespass within 25 feet of any fenced enclosure at the county detention center marked by a sign that states: "UNLAWFUL TO COME WITHIN 25 FEET OF THIS FENCE. STAY BACK."
 - (2) It shall be unlawful to throw, pass or otherwise deposit any item of contraband forbidden to inmates by the county detention center rules over any fence or into any enclosure of the county detention center.
 - (3) It shall be unlawful for any person to aid, abet, solicit or otherwise participate in any attempt, successful or unsuccessful, to convey, smuggle or otherwise pass any item of contraband forbidden to inmates by the county detention center rules to any inmate held in custody by the county sheriff or into any enclosure of the county detention center.

(b) *Penalty for violation of rules.* Any person who violates any provision of the rules of this section shall, upon conviction, be punished in accordance with section 1-7.
(Ord. of 1-7-2002, § 1)

Secs. 16-32--16-50. Reserved.

DIVISION 2.

MEDICAL POLICY AND PLAN FOR INMATES*

* **State Law References:** Emergency medical care in local confinement facilities, G.S. 153A-224(b); medical care of prisoners, G.S. 153A-225.

Sec. 16-51. Purpose of division.

This division is to ensure that safe, efficient, prompt and sufficient health care is provided for all inmates in the county detention center. This division will also provide safety for the inmates, the detention officers, the transporting officers and the general public while the inmate is in the custody of the county sheriff's office.
(Ord. of 2-5-2002)

Sec. 16-52. Receiving screen.

The receiving screen in the detention center shall contain the following:

- (1) No person shall be confined if he is unconscious, bleeding, or severely impaired before and unless he has been taken to a medical doctor for treatment.



- (2) Should the prisoner refuse treatment, the arresting officer shall bring in writing a statement signed by the doctor stating the prisoner was offered medical care but refused treatment, which the jailor will file with the prisoner's records.
- (3) If medical attention is found to be needed after the prisoner is in custody, the detention officer will immediately request the sergeant on duty to take the inmate to the doctor and follow through to see that it is done.
- (4) All newly arrived inmates will be questioned concerning their health and complete the inmate medical record screening form.
- (5) Inmates will be asked about current physical condition and prescription medication (prescribed by a medical doctor).
- (6) If medication is not with the inmate, the detention officer shall do everything possible to get that medication for the inmate, including contacting family members and friends of the inmate.
- (7) If family members or friends of the inmate are not capable of locating and/or bringing the medication to the detention for the inmate, the detention officer will request a deputy sheriff attempt to obtain the medication.
- (8) If no medication can be found, and the inmate has a history of heart disease, diabetes, epileptic or some other life threatening disorder, the detention officer shall call a medical doctor at one of the nearest health care facilities for advice on planning further action.
- (9) If requested by the doctor, the inmate shall be taken to the health care facility for treatment.
- (10) If the inmate does have medication with him, the detention officer will verify the medication is for the right inmate, appears to be the correct medication, packaged in a medication container and not expired. The medication will be kept in the medication locker and provided to the inmate at all appropriate times, per the doctor's orders printed on the medication label.
- (11) If the detention officer feels it necessary he shall call a medical doctor and/or pharmacist to discuss the inmate medication and its dispersion.
- (12) Medication will be administered as prescribed by the medical doctor's orders.
- (13) If medication is about to give out, the pharmacy or nurse will be notified.
- (14) The chief detention officer or nurse will have appropriate medication filled promptly.
- (15) If a prescription is necessary, the inmate may be taken (if required) to the medical doctor for assessment and refilling the prescription.



- (16) All medication will be obtained from the nearest pharmacy.
- (17) The cost of the medication will be charged to the county (if the inmate has no funds), and a charge ticket will be signed by the individual picking up the medication.
- (18) A copy of such charge ticket along with the medication will be delivered to the detention center chief jailor or nurse.
- (19) Inmates who are known to have or state they have a contagious disease (i.e., venereal disease, tuberculosis, etc.) will be isolated away from the general population until such time they have received appropriate care and no longer pose a risk to other inmates.
- (20) Inmates will be questioned and a record made of any health issues and insurance coverage.
- (21) The detention officer may isolate (for a reasonable period of time) any inmate who has received medical care if he and/or the attending physician believe it to be necessary.
- (22) All medication (including over the counter medication) will be kept in a locked cabinet in the detention center office.
- (23) The detention officer will be responsible for giving the correct medication to the right inmate at the appropriate time as directed by the physician's order.
- (24) All medication brought into the detention center by the inmate or inmate's friends or family shall be confiscated and inspected prior to dispersion.

Only prescription medications will be accepted for administration in the detention center. Opened liquid prescription medications may be left at the center to aid in refilling medication orders but may not be dispensed until medication can be identified. No containers of mixed medication will be dispensed to the inmate until such time as the medication is identified and verified as the appropriate medication prescribed for the inmate by a medical doctor.

- (25) Detention officers may dispense over the counter medications for relief of headaches, minor aches/pains, indigestion, cough, colds and minor cuts/burns as directed by the nonprescription standing orders approved by the county health department and the facility physician.
- (26) Inmates shall be observed while he is taking medications.
- (27) All medication shall be logged in the permanent medication administration record (MAR) when dispersed to an inmate. The record shall include the inmate's name, medication, strength of medication, date, time, amount, and administering officer.

(Ord. of 2-5-2002)

Sec. 16-53. Emergency care.



Emergency care in the detention center shall be as follows:

- (1) Inmates who become injured or acutely ill and require immediate medical attention will be transported as soon as possible to a medical facility (Tarboro Clinic, Immediate Care, or Heritage Hospital).
- (2) If inmates need emergency transportation, the detention officer will call the county rescue squad and notify the sergeant on duty in order that safety and security can be maintained at the emergency room or physician's office.
- (3) If the need is not of an emergency nature and a deputy sheriff is in or near the office (not exceeding a 15-minute estimated time of arrival), the detention officer will request the deputy to transport the inmate.
- (4) The detention officer will notify the medical facility the inmate is enroute to their facility and provide necessary information to health care providers to expedite services.
- (5) A prisoner medical report (PIN-IR 504) will be filled out on each inmate taken to a medical facility by the detention officer. The report will reflect the date, time, inmate name, social security number, date of birth, complaint of illness, and list all medication, strength and administration times. The document will be placed in an envelope and labeled "EDGECOMBE COUNTY DETENTION CENTER, CONFIDENTIAL MEDICAL INFORMATION." The document will be transported with the inmate and presented to the appropriate health care medical doctor or nurse. When the inmate's visit is complete, the physician shall be requested to complete the document and return it to the detention facility where the document will be placed in the inmate's permanent medical file.

(Ord. of 2-5-2002)

Sec. 16-54. Nonemergency case.

Sick call will be conducted in the detention facility three days per week and will be scheduled according to the number and type of requests. Sick call request forms must be completed and turned in by 8:00 a.m. each morning to ensure the inmate being seen. Sick call request forms may be obtained from the detention officer at any time. Once the form is completed the request will be routed through the shift supervisor to the on-duty registered nurse. The detention center nurse will be on duty five days a week, during business hours. Medical emergencies as determined by detention officers and nursing staff may be seen at any time without prior completion of a sick call slip. The sick call request will become part of the inmate permanent record.

(Ord. of 2-5-2002)

Sec. 16-55. Inmate transportation.

Inmates being transported for medical treatment will be handcuffed and shackled.

(Ord. of 2-5-2002)

Sec. 16-56. Responsibility for medical cost.



(a) Insurance information, if available, will be provided by the detention officer to the medical provider. The county will be responsible for the cost of all medical bills of an inmate, if the illness or injury occurs while incarcerated in the county detention center and the inmate has no insurance coverage. Inmates detained for the state may be covered for minor medical illness expense but not for extraordinary medical expenses.

(b) Inmates will be charged an amount set from time to time per incident for nonemergency medical care (statutory authority G.S. 153A-225(a)). However no inmate will be denied medical service, if he is unable to pay the currently required fee. The cost of each nonemergency medical visit will be deducted from the inmate's trust fund. Should an inmate have insufficient funds to cover the fee, any funds in the account will be withdrawn and a negative account balance will be carried for the difference owed. Should an inmate be indigent, a negative account balance will be carried for the amount owed. Negative account balances will be deducted from any future funds deposited into the inmate's account.

(c) The following physicians and/or medical facilities should be used for inmate medical treatment: Tarboro Clinic (823-2105), Immediate Care (823-7288), Heritage Hospital (641-7700), Edgecombe County Health Department (611-7511), Edgecombe County Rescue Squad (911).
(Ord. of 2-5-2002)

Secs. 16-57--16-60. Reserved.

ARTICLE III.

LAW ENFORCEMENT TRAINING FACILITY

Sec. 16-61. Law enforcement training facility defined.

The law enforcement training facility is defined as being Lot 45A of Dodge City, No. Ten Township, Edgecombe County, as shown on map recorded in Map Book 14, Page 1, Edgecombe Registry, located at the intersection of the eastern property line of Dodge Street (SR 1299) and the northern property line of Creek Street (SR 1326) and on which lot is located a firing range and a classroom and kitchen facilities building.
(Ord. of 5-1-2006(2), § 1)

Sec. 16-62. Control and use of law enforcement training facility.

The following requirements apply to the use of the law enforcement training facility:

- (1) The law enforcement training facility shall at all times be under the operational control of the Sheriff of Edgecombe County.
- (2) The Sheriff of Edgecombe County must approve in advance all requests for the use of the training facility so that there will be no conflict with previously coordinated training activities of the sheriff's office.



- (3) Designated personnel from the sheriff's office must always be notified whenever any local, state or federal law enforcement agency, community college system, or any branch of the government is utilizing the firing range.
- (4) All firing range target systems must be operated by authorized personnel designated by the sheriff without regard to which local, state or federal law enforcement agency, community college system or any branch of the government is utilizing the firing range at the training facility.

(Ord. of 5-1-2006(2), § 1)

Sec. 16-63. Control and use of building and surrounding areas.

The following requirements apply to the use of the building and surrounding areas:

- (1) Use of the classroom and kitchen facilities, any roadways or adjacent undeveloped areas must be approved by the sheriff so as not to conflict with previously coordinated training activities of the sheriff's office.
- (2) The law enforcement agency, community college system or any other authorized user will be entirely responsible for the proper use and proper after-use cleanliness of the training facility.
- (3) The specific training request will be the basis on which the sheriff will make a determination as to whether authorized personnel from the sheriff's office will need to be in attendance for these events.

(Ord. of 5-1-2006(2), § 1)



Chapter 17

RESERVED



Chapter 18

OFFENSES AND MISCELLANEOUS PROVISIONS*

* **Cross References:** Law enforcement, ch. 16.
State Law References: State criminal code, G.S. ch. 14.

Sec. 18-1. Carrying of concealed handguns on county property.

Sec. 18-1. Carrying of concealed handguns on county property.

(a) *Posting of signs required.* The county manager is hereby ordered to post appropriate signage on each park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the county, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

(b) *Location of signs.* Such signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premise, or park. The county manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premises, or park.

(Ord. of 11-6-1995, §§ 1, 2)

Cross References: Restrictions on possession, transportation, and transfer of dangerous weapons and substances, § 8-35.

State Law References: Authority to adopt ordinances to permit the posting of a prohibition against carrying a concealed handgun, G.S. 14-415.23.



Chapter 19

PERSONNEL*

* **Editors Note:** Printed herein is the Personnel Policy of Edgecombe County, North Carolina, effective August 5, 2002, as approved by the county board of commissioners.

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ARTICLE I.

IN GENERAL

Sec. 19-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appointing authority means any position with legal or delegated authority to make hiring decisions.

Full-time employee means an employee who is in a position for which an average workweek equals at least 40 hours, and continuous employment of at least 12 months, is required by the county.

Grievance means a follow-up claim or complaint based upon an event or condition which has resulted in a permanent employee having been demoted, suspended, dismissed, laid-off, had a reduction in pay or who believes he has been discriminated against because of age, sex, race, religion, handicap, or pregnancy.

Part-time employee means an employee who is in a position for which an average workweek of at least 20 hours and less than 40 hours and continuous employment of at least 12 months is required by the county.

Permanent employee means an employee appointed to serve in a full or part-time position for an indefinite duration and who has successfully completed the designated probationary period.

Probationary employee means an employee appointed to a full or part-time position that has not yet successfully completed the designated nine-month probationary period. Persons in trainee status are a probationary employee for the full duration of their appointment in that status.

Temporary employee. An employee appointed to a position and meeting the following criteria:



- (1) Employee is not eligible for overtime pay and shall be paid at an agreed upon rate regardless of hours worked.
- (2) Employee shall not be eligible for benefits including health and life insurance, 401K, retirement, holiday pay, sick or vacation leave.
- (3) Employee shall be subject to all federal, state and local withholdings.
- (4) Employee shall, however, be covered by the county's workers compensation and professional liability insurances.
- (5) Employee shall not be considered an independent contractor.
- (6) Employment shall not exceed 12 months and is subject to annual budget appropriations.

Trainee means an employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

(Ord. of 10-3-2005(2), § 1)

Cross References: Definitions generally, § 1-2.

Sec. 19-2. Purpose.

The purpose of this chapter and the rules and regulations are set forth to establish a fair and uniform system of personnel administration for all employees of the county which will enable the county to recruit, select, develop and maintain an effective and responsible work force. The policy applies to all employees under the supervision of the county manager, elected officials, elections board, board of health, and social services board. These aforementioned entities are the official appointing authorities covered by this personnel policy. State requirements will supersede these policies for positions subject to the State Personnel Act whenever there is a conflict. This policy is established under authority of G.S.153A-76 et seq. and G.S. 126-1 et seq.

Sec. 19-3. Implementation of policy.

(a) This policy stands up-dated effective August 5, 2002. All policies, ordinances, or resolutions that conflict with the provisions of this policy are hereby repealed.

(b) Any employee violating any of the provisions of this policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty which may be imposed for the violation.

Sec. 19-4. Merit principles.

All appointments and personnel actions shall be made on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and salary grade. No applicant for county employment or employee shall be deprived of employment



opportunities or otherwise be adversely affected as an employee because of an individual's race, creed, color, religion, sex, national origin, political affiliation, qualified disability, or age.

Sec. 19-5. Application of policies, plan, rules, and regulations.

(a) This chapter and all rules and regulations adopted pursuant thereto shall be binding on all county employees. The county manager, county attorney, elected officials, appointed members of the county board, advisory boards and commissions, employees of the county library, employees of the board of education, and employees of the Nash-Edgecombe Area Mental Health Program will be exempted except in sections where specifically included.

(b) The following employees shall be covered only by the designated articles and sections of this chapter:

- (1) Employees of the state cooperative extension service shall be subject to article V of this chapter (denoted by ext: extension);
- (2) The director of elections shall be subject to articles II and III; article IV, sections 19-101--19-104; articles V and VI; article VII; article VIII, sections 19-367 and 19-369 (denoted by DOE: director of elections);
- (3) Temporary employees as designated by the board of commissioners shall be subject to article I, article III, section 19-74; article IV, sections 19-101-19-106; article V; article VI, sections 19-171 and 19-178; article VII, section 19-364; and article XI (denoted by TEM: temporary).

Sec. 19-6. Responsibilities of the county board of commissioners.

The county board of commissioners shall be responsible for establishing and approving human resources policies, the position classification and pay plan, and it may change the policies and benefits as necessary. The board also shall make and confirm appointments when so specified by the general statutes.

Sec. 19-7. Responsibilities of the county manager.

(a) The county manager shall be responsible to the county board of commissioners for the administration and technical direction of the human resources program. The county manager shall appoint, suspend, and remove all county officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The county manager shall make appointments, dismissals and suspensions in accordance with G.S. 153-A-82 and other policies and procedures spelled out in other articles of this chapter.

(b) The county manager may delegate human resources functions, as appropriate. The county manager or designee shall maintain the position classification plan and the pay plan and perform such other duties in connection with a modern human resources program as the county board requires. All matters dealing with human resources shall be routed through the office of the county manager or designee who shall maintain a complete system of personnel files and records.



- (c) The county manager shall:
- (1) Recommend rules and revisions to the personnel system to the county board of commissioners for consideration;
 - (2) Make changes as necessary to maintain an up to date and accurate position classification plan;
 - (3) Recommend necessary revisions to the pay plan;
 - (4) Determine which employees shall be subject to the overtime provisions of FLSA;
 - (5) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the county;
 - (6) Perform such other duties as may be assigned by the county board of commissioners not inconsistent with this chapter; and
 - (7) Appoint an employee to the role of human resources director.

Sec. 19-8. Elected officials.

Those officials elected by the people, sheriff and register of deeds, have the right to hire, discharge and supervise employees in their departments under the authority of G.S. 153-103.

Sec. 19-9. Responsibilities of the human resources director.

The responsibilities of the human resources director are to make recommendations to the county manager on the following:

- (1) Recommend rules and revisions to the personnel system to the county manager for consideration;
- (2) Recommend changes as necessary to maintain an up to date and accurate position classification plan;
- (3) Recommend necessary revisions to the pay plan;
- (4) Recommend which employees shall be subject to the overtime provisions of FLSA;
- (5) Maintain a roster of all persons in the county service;
- (6) Establish and maintain a list of authorized positions in the county service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;



- (7) Provide technical assistance and monitoring of recruitment efforts to assure open job opportunities and tracking workforce data;
- (8) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the county;
- (9) Identify training and staff development needs and develop and coordinate training and educational programs for county employees to address those needs;
- (10) Investigate periodically the operation and effect of the personnel provisions of this policy; and
- (11) Perform such other duties as may be assigned by the county manager not inconsistent with this chapter.

Sec. 19-10. Departmental rules and regulations.

Due to the particular personnel and operational requirements of the various departments of the county, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the county manager or designee, and shall not in any way conflict with the provisions of this chapter, but shall be considered as a supplement to this chapter.

Sec. 19-11. Retention of benefits.

(a) Any permanent employee who transfers from another unit of local or state government shall have their years of services as determined by the number of years paid and retained (withdrawn years will not be considered) in the local, state, teachers or law enforcement retirement systems credited towards the county's schedule for determining vacation accrual rates.

(b) Those employees who are hired directly from the Edgecombe Nash Mental Health Center shall be eligible to transfer all unused sick or vacation leave upon verification.

Sec. 19-12. Inclement weather policy.

(a) It is the county's policy to be open and to provide county services whenever possible. This desire to maintain services is equally balanced with the desire to maintain a safe and hazard free workplace for the employee and the public.

(b) In the event of inclement weather the following guidelines will be in effect:

- (1) Announcement of opening or closing of county offices will appear on local radio and television stations by 7:00 a.m.
- (2) It becomes the employee's responsibility to determine and decide if he can safely travel to work.



Upon deciding, the employee should contact his office and let his supervisor know whether or not he will come to work.

- (3) Late arrivals may be granted the option of up to one hour administrative leave at the discretion of the county manager.
- (4) Employees not arriving at all shall charge time to vacation leave.

Secs. 19-13--19-30. Reserved.

ARTICLE II.

POSITION CLASSIFICATION PLAN

Sec. 19-31. Purpose.

The position classification plan provides a complete inventory of all authorized and permanent positions in the county service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities. All positions covered by the personnel policy are to be classified according to the assigned duties, responsibilities, qualifications needed, and other required factors. In order to insure its continuing value as a personnel management tool, the positions classification plan will be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of regular positions.

Sec. 19-32. Composition.

The classification plan shall consist of:

- (1) A grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- (2) Class titles descriptive of the work of the class;
- (3) Written specifications for each class of positions; and
- (4) An allocation list showing the class title of each position in the classified service.

Sec. 19-33. Use of the position classification plan.

The classification plan is to be used:

- (1) As a guide in recruiting and examining applicants for employment;



- (2) In determining lines of promotion and in developing employee training programs;
- (3) In determining salary to be paid for various types of work;
- (4) In determining personnel service items in departmental budgets; and
- (5) In providing uniform job terminology.

Sec. 19-34. Administration of the position classification plan.

The county manager, assisted by the human resources director, shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The human resources director shall periodically review portions of the classification plan and recommend revisions to the county manager to ensure that classifications accurately reflect current job duties and responsibilities. The human resources director shall also periodically review the entire classification plan and, when needed, recommend major changes to the county manager.

Sec. 19-35. Authorization of new positions and the position classification plan.

New positions shall be established upon recommendation of the county manager and approval of the board of commissioners. New positions shall be recommended to the board of commissioners with a recommended class title. The position classification plan, along with any new positions or classifications shall be approved by the board of commissioners and on file with the human resources director. Copies will be available to all employees for review upon request.

Sec. 19-36. Request for reclassification.

Requests for position reclassifications should be submitted in writing by the department head or agency director to the human resources office. Upon receipt of such request, the human resources director or designee shall study the request, determine the merit of the reclassification and present to the county manager for approval. Upon approval, the human resources director or designee shall make the necessary changes to maintain a fair and accurate classification plan.

Secs. 19-37--19-60. Reserved.

ARTICLE III.

PAY PLAN

Sec. 19-61. Definition.

The term "pay plan", as used in this article, includes the salary schedule and the assignment of classes to salary grades and ranges adopted by the board of county commissioners. The salary schedule consists of steps for minimum, maximum and intervening rates of pay for all classes of positions and designation of the standard hours in the workweek for each position approved by the board of county commissioners. Salary increases



within the pay range shall be based on performance and other criteria established by the county manager.

Cross References: Definitions generally, § 1-2.

Sec. 19-62. Administration and maintenance of the pay plan.

(a) The county manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the county, and other factors. To this end, the county manager shall from time to time make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades. When major adjustments encompassing numerous positions are needed as a result of a comprehensive salary survey, or when a general adjustment is needed to the pay plan, the county manager shall recommend such changes in salary ranges as appear to be warranted to the board.

(b) All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

(c) The board shall adopt the salary schedule and assignment of job classes to salary grades, including any minor adjustments made by the county manager during the previous budget year, annually as part of the budget process.

(d) The county manager may approve in-range adjustments to employee salaries when necessary to accommodate inequities, special performance or achievements, or other issues.

Sec. 19-63. Starting salaries.

(a) All persons employed in positions approved in the position classification plan normally shall be employed at the minimum rate for the classification in which they are employed; however, on the recommendation of the department head, with the approval of the county manager, employee salaries may be approved above the minimum rate. Reasons for hiring above the minimum rate include exceptional education and experience qualifications of the applicant, a shortage of qualified applicants, and/or the refusal of qualified applicants to accept employment at the minimum rate. Department heads shall consider internal equity of other employees in the department when making a recommendation for employment above the minimum rate.

(b) Pay for part-time or temporary status will be paid a prorated amount determined by converting the established salary range to an hourly rate.

Sec. 19-64. Trainee designation and provisions.

(a) Applicants being considered for employment or county employees who do not meet all of the established requirements for the position for which they are being considered, may be hired, promoted, demoted, or transferred by the county manager to a "trainee" status or as a "work against". In such cases, a plan for training and meeting the minimum qualification for the job classification, including a time schedule, must be



prepared by the supervisor. An employee shall remain at the trainee or work against salary level until the department head certifies that the employee is qualified to assume full responsibilities of the position and the county manager approves the certification. The department head shall review the progress of each employee in a trainee or work against status every six months or more frequently as necessary to determine when the employee is qualified to assume full responsibilities of the position.

(b) Trainee salaries may be one to three grades below the minimum salary established for the position for which the person is being trained. Assignment three grades below are appropriate when the traineeship is expected to last two years. Assignment two grades below are appropriate for more than six months but less than two years. The actual assignment should be reviewed and approved by the human resources director. Generally, salary increases are provided at specific intervals and may be advanced or delayed depending on the employee's progress. A new employee designated as trainee appointment shall be in a probationary status until requirements for the full job class are met. If the training is not successfully completed as planned, the employee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the job class.

Sec. 19-65. Probationary pay increases.

Employees hired or promoted into the Minimum Rate of the pay range may be eligible to receive a salary increase within the salary range upon successful completion of the applicable probationary period subject to funding availability. Employees hired or promoted above the hiring rate may also be considered for an increase when removed from probationary status, based upon performance level.

Sec. 19-66. Performance pay increases.

Upward movement within the established salary range for an employee is not automatic but rather based upon specific performance-related reasons. Employees may be considered for advancement within the established salary range based on the quality of their overall performance. Procedures for determining performance levels and performance pay increases shall be established in procedures approved by the county manager when funds are available.

Sec. 19-67. Performance pay bonus.

Employees who are at the maximum of the salary range for their position classification are eligible to be considered for a performance (merit) bonus at their regular performance evaluation time. Performance (merit) bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be the same percentage of annual salary as employees within the salary range with the same performance level. Performance (merit) bonuses do not become part of base pay and shall be awarded in a lump sum payment.

Sec. 19-68. Salary effect of promotions, demotions, transfers, and reclassifications.

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position shall be established in accordance with the following rules:



- (1) *Promotions.* When an employee is promoted to a position with a higher salary grade, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of at least one step (2.5 percent) over the employee's salary before the promotion; provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotional pay increase is to recognize and compensate the employee for assuming increased responsibility.
- (2) *Demotions.* When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate, if appropriate. Consideration should be given to whether the employee is receiving the same pay for decreased workload or responsibility level and action should be appropriate to this consideration. If the demotion is the result of discipline, the salary shall be decreased at least one step (2.5 percent), but may be no greater than the maximum of the new range.
- (3) *Transfers.* The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary grade shall not be changed by the reassignment.
- (4) *Reclassifications.* An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of one step (2.5 percent) or an increase to the minimum rate of the new pay range, whichever is higher. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Sec. 19-69. Salary effect of salary range revisions.

(a) When an approved salary range revision for a class of positions assigns the class to a higher salary range as a result of labor market conditions, employees in that class shall be brought to the minimum of the new class unless the current salary of the employee is at or above the new minimum, then the employee shall receive at least a 2.5 percent increase to alleviate possible compression. An employee's salary may not be increased above the maximum of the range.

(b) When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee in that class being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Sec. 19-70. Transition to a new salary plan.

The following principles shall govern the transition to a new salary plan:

- (1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.



- (2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new Minimum for their classes. The only exception will be those employees in probationary status and currently being paid at the hiring rate, a trainee rate, or in a "work against" status. They will remain in their same relative pay status in the new salary grade assigned.
- (3) All employees being paid at a rate above the minimum and below the maximum are considered as being paid at a competitive rate for the job class and may receive any approved salary plan implementation increases as authorized by the board.
- (4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Sec. 19-71. Effective date of salary changes.

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period, or at such specific date as may be provided by procedures approved by the county manager.

Sec. 19-72. Overtime pay provisions.

- (a) *Working overtime.* Employees of the county can be requested and may be required to work overtime hours as necessitated by the needs of the county and determined by the supervisor.
- (b) *Distribution of overtime.* Overtime opportunities will be distributed as equally as practicable among employees in the same job class, department and shift regardless of age, sex, race, color, creed, religion, national origin, political affiliation, or physical handicap. It is the policy of the county not to pay for overtime unless authorized. Unauthorized overtime will not be paid and may result in dismissal on the grounds of insubordination.
- (c) *Compliance with Act.* To the extent that local government jurisdictions are so required, the county will comply with the Fair Labor Standards Act (FLSA). The county manager and department heads shall determine which jobs are nonexempt and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.
- (d) *Nonexempt employees.* Nonexempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a seven-day period or alternative FLSA approved full time schedule). Employees in public safety job classes may earn overtime based on a 28 day time period. Hours worked beyond the FLSA established limit will be compensated in pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes, however such overtime may be used to reduce the number of vacation and/or sick leave hours used.



(e) *Compensatory time.* Compensatory time off may be substituted when necessary and determined by the county manager, based on recommendations from the department head. Department heads and supervisors are responsible for ensuring that an employee shall not accumulate more than 80 hours of compensatory time at any time. Nonexempt employees separating from employment shall be paid for their accumulated compensatory time in accordance with FLSA provisions.

(f) *Pay at time and one-half.* In emergency situations, where employees are required to work long and continuous hours, the county manager, subject to board of commissioner approval, shall approve compensation pay at time and one-half (1 1/2) for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

(g) *Exempt employees.* Employees determined to be "exempt" from the FLSA (as executive, administrative, or professional staff) will receive compensatory time for hours worked in excess of their normal work periods on an hour for hour basis, except in emergency situations, wherein the county manager, subject to board of commissioner approval shall grant pay or compensatory time at the overtime rate of time and one-half (1 1/2). Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization and should be taken off in the pay period in which it is earned or no later than the following pay period. Only hours actually worked shall be considered in the computation of overtime; in no event will vacation, sick leave, or holidays be considered as hours worked, however such overtime may be used to reduce the number of vacation and sick leave hours used.

(h) *Department heads.* Department heads may be granted compensatory leave on an hour for hour basis where the convenience of the department allows and in accordance with procedures established for exempt personnel. The veterans service officer position is not a designated department head level position.

(i) *Different overtime schedule.* Department heads may, with prior approval of the county manager, establish a different overtime schedule for those employees whose number of hours worked or hours on-call exceeds the number of hours constituting the established workweek for the employee's position. (Ord. of 10-7-2002, § 1; Ord. of 1-5-2004, § 1)

Sec. 19-73. On-call and call-back compensation.

(a) The county provides continuous 24-hour-a-day, seven-day-a-week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the county is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the county manager.

(b) The county provides compensation for employees who are required to be available for after hours on-call coverage. Compensation for time spent while on-call and for time spent when actually called back to work shall be determined according to the following:

(1) *On-call stand-by.* Nonexempt employees required to be on stand-by duty will be paid eight hours



of work for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .08 of pay per hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must remain near an established telephone or otherwise substantially restricted personal activities in order to be ready to respond when called.

- a. The county manager may approve exceptions to this pay provision for specific classes of jobs when unique demands of the work create recruitment and/or retention problems and affect the county's ability to be competitive. The manager will inform the board of commissioners and the human resources office will maintain documentation on the justification for the exception and the approved alternate on-call practice. Exceptions will be reviewed annually and a determination made on whether the exception is still required or should be abolished. As jobs and/or the market changes, practices approved as exceptions will be changed as appropriate.
 - b. The county manager or designee must approve on-call standby schedules. The finance office shall maintain a list of employees who are approved for on-call compensation arrangements.
- (2) *Call back.* Nonexempt employees will be guaranteed a minimum of two hour's wages for being called back to work outside of normal working hours. For time periods above two hours, compensation will be for actual time worked. Should this additional time exceed the standard hours of work for the workweek or pay period, overtime pay rules and regulations shall apply. Call-back provisions do not apply to previously scheduled overtime work.

Sec. 19-74. Payroll schedule and deductions.

- (a) The payroll schedule shall be established by the county manager and shall be administered by the finance department.
- (b) The county uses a mandatory direct deposit method of payment. Employees shall provide the necessary information to enable and maintain direct deposit. It shall be the responsibility of the employee to provide current information for the purpose of direct deposit.
- (c) Payroll deductions specifically mandated or authorized by federal or state law will be deducted at each pay period from each employee's salary. These include federal and state withholding taxes, social security, FICA, retirement contributions, and garnishments. Other deductions as requested and authorized by each employee may be made for benefits such as insurance, deferred compensation, United Way and credit union participation. Additional deductions may be made on determination by the county manager as to capability of payroll equipment and appropriateness of the deductions.

Sec. 19-75. Longevity pay.



Full-time and eligible part-time employees of the county are compensated for continuous years of service with the county by payment of a longevity supplement. The percentage of compensation will depend of the number of full years of continuous county service as of November 1 of each year. The percentage will be based on the following tables:

Years of Service	Longevity Amount (percent)
5--9	2.5
10--14	4
15--19	5
20--24	6
25 plus	6.5

The pay will be a percentage of the previous July's annual gross salary and will be paid in the month of November each year. Retiree's with 30 years service shall receive prorated longevity based on the actual time worked from November 1 of the current year to the date of retirement.

Elected officials compensated by the county shall have the option of either having longevity pay paid to them in November of each year or having the longevity pay added to the annual compensation and paid to them in the same manner in which annual compensation is paid.

(Ord of 11-5-2005, § 1; Ord. of 2-6-2006(1), § 1)

Secs. 19-76--19-100. Reserved.

ARTICLE IV.

RECRUITMENT AND EMPLOYMENT

Sec. 19-101. Equal employment opportunity policy.

(a) It is the policy of the county to foster, maintain and promote equal employment opportunity. The county shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to race, creed, color, religion, sex, national origin, political affiliation, qualified disability, or age. Applicants with qualifying disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties.

(b) The affirmative action program shall insure greater utilization of all persons by identifying previously underutilized groups in the workforce, such as minorities, women, and the handicapped, and making special efforts toward open recruitment.

Sec. 19-102. Implementation of equal employment opportunity policy.

(a) The county manager is ultimately accountable for equal employment opportunity and the county's affirmative action efforts. The manager may appoint an affirmative action officer to assist in monitoring, consulting and reporting on affirmative action. All department heads will share responsibility for the affirmative



action program for equal employment opportunity.

(b) All personnel responsible for recruitment and employment will continue to review regularly the implementation of this policy and relevant practices to ensure that open and equal employment opportunity based on reasonable, job-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, color, religion, sex, national origin, political affiliation, qualifying disability, or age. Notices with regard to equal employment matters shall be posted in conspicuous places on county premises in places where notices are customarily posted.

(c) A planned and organized recruitment program shall be maintained by the human resources director that is carried out in a manner that assures open competition and recruitment, selection, and advancement of employees will be on the basis of their relative ability, knowledge and skills.

Sec. 19-103. Recruitment, selection and appointment.

(a) *Recruitment sources.* All vacant positions being filled will be publicized to permit an open opportunity for all interested employees and applicants to apply. The supervisor will notify the human resources director who shall publicize these opportunities for employment, including applicable title, salary range, key duties, knowledge and skill requirements, minimum education and experience standards and a contact person. Information on job openings and hiring practices will be published in local and/or other news media as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for county service. The North Carolina Employment Security Commission shall normally be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., The county may hire or promote without advertising jobs, upon approval of the county manager. Special emphasis will be placed on efforts to attract minorities, women, and the disabled or other groups that may be under-represented in the workforce to help ensure these groups will be among the candidates from whom appointments are made.

When there are positions to be filled within the county, department heads and the county manager will work together with the human resources director on recruitment procedures including use of the applicant interest cards, applications reserve file, and other formal recruitment methods.

(b) *Job advertisements.* Employment advertisements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes.

(c) *Application for employment.* All persons expressing interest in employment with the county shall be given the opportunity to file an application for employment for positions, which are vacant.

(d) *Applicant interest card.* Persons interested in employment with the county may complete an applicant interest card concerning all of the positions for which they wish to apply. These cards will be maintained for a period of six months. When a vacancy occurs in positions of interest, the card will be sent, notifying the person and requesting that the person complete an application before the designated deadline.



(e) *Application reserve file.* Applications shall be kept in an inactive reserve file for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

(f) *Selection.* Selection will be based upon relative consideration of the applicants' qualification for the position to be filled to determine the best qualified candidate. Department heads, with the assistance of the human resources director, shall make reference checks and conduct such examinations as deemed appropriate to accurately assess the aptitude, education and experience, knowledge, skills, abilities and other qualifications required for the position. Interview questions will be job related and questions will be valid and standardized for all interviewees. All selection devices administered by the county shall be valid measures of job performance. The same selection process will be used consistently with all applicants.

(g) *Qualification standards.* County employment standards are established by the position classification plan and include knowledge, skills and abilities, education and experience standards, and license, registration, or certification required by state statute and rules.

(1) These qualifications shall be reviewed periodically by the county manager and department heads to ensure that requirements are fair and conform to actual job performance requirements.

(2) In some instances, the county may employ an applicant in a trainee position who does not meet all minimum qualification and the deficiencies can be eliminated through orientation and on-the-job training.

(h) *Appointments.*

(1) Before any commitment is made to an applicant either internal or external, the appointing authority shall make recommendations to the human resources director including the position to be filled, the salary to be paid and the reasons for selecting the candidate over other candidates. The human resources director will review the request, provide comments and or recommendations, and forward to the county manager. The county manager shall approve or reject the appointment and starting salary of the employee. Exceptions are the sheriff and register of deeds who shall make the appointment and the county manager will determine the classification and starting salaries of new employees within those departments.

(2) By authority of G.S. 153-103, the board of commissioners must approve the appointment by the sheriff or register of deeds of a relative by blood or marriage or nearer kinship than first cousin (or of a person who has been convicted of a crime involving moral turpitude.)

(i) *Credentials verification.*

(1) If a position requires a specific degree, certification, licensure, or registration, appropriate documentation must be furnished by the selected applicant before employment.

(2) Credentials of new and/or promoted employees shall be verified within 60 days from hiring date, including official transcripts which will be requested and received by the human resources department. The human resources department must be kept informed of employee licensure



status as required and must receive renewals as appropriate. Failure of an employee to comply with provisions of state law concerning licensure, certification and registration, will be basis for termination of employment.

Sec. 19-104. Probationary period.

(a) An employee receiving an original appointment or promotion to a permanent position shall serve a probationary period of nine months. Sworn law enforcement personnel of the sheriff's department shall serve a 12-month probationary period.

(b) Department heads shall serve a 12-month probationary period. Former employees who are rehired shall also be required to serve a probationary period.

(c) The probationary period is considered an extension of the selection process. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall determine whether or not the employee is performing satisfactory work and meeting job expectations. The employee's progress (accomplishments, strengths, and weaknesses) will be discussed with the employee and a summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of three additional months. Therefore, the maximum probationary period for law enforcement officers and department heads is 15 months and for other county employees it is 12 months.

(d) Disciplinary action, including demotion and dismissal, may be taken at any time during the period of a new hire without following the steps outlined in article X of this chapter. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee may be dismissed in accordance with article IX of this chapter.

Sec. 19-105. Promotion.

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the county's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be promoted to that position. The county will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates must possess the minimum requirements and shall apply for promotions using the same application process as external candidates.

Sec. 19-106. Demotion or reassignment.

(a) Demotion or reassignment is the movement of an employee from one position to a position in a



class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in the lower position and possesses the minimum requirements for the position. Such demotion shall follow the disciplinary procedures outlined in this chapter. Demoted employees may appeal this decision based on the grievance process outlined in article X of this chapter.

(b) If the change results from a mutually agreed upon arrangement, the action is considered a reassignment and will be documented in writing and filed in the employees' official personnel file.

Sec. 19-107. Transfer.

(a) Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The department head wishing to transfer an employee to a different department or classification shall make a recommendation to the county manager. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in article X of this chapter.

(b) Any employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department without serving another probationary period.

Sec. 19-108. Performance evaluation (see article V).

(a) Performance evaluations are an essential part of a productive work environment. Supervisors and employees must agree on future goals and objectives. It helps employees to identify their strengths and recognize their developmental needs. It also serves to motivate and stimulate accomplishment of overall departmental goals.

(b) Each year all general county employees will be evaluated by their immediate supervisor, department head or designee. New employees will be evaluated at the end of their six-month probationary period. Each employee will have input in and discussion around his evaluation report which he signs and is placed in his personnel file.

(c) The county manager is to evaluate department heads and directors.

Secs. 19-109--19-130. Reserved.

ARTICLE V.

CONDITIONS OF EMPLOYMENT

Sec. 19-131. Work schedule.

(a) Full-time employees normally work five eight-hour days per week. Department heads shall work the number of hours necessary (not less than the established work week) to ensure the satisfactory performance



of their duties.

(b) Department heads may schedule individual employees for eight-hour schedules between 7:30 a.m. and 5:30 p.m. provided that all services are provided to the general public from 8:00 a.m. to 5:00 p.m. Department heads shall establish work schedules, with the approval of the county manager, which meet the operational needs of the department in the most cost effective manner possible.

(c) Breaks are a benefit, not a right and cannot be guaranteed. Subject to the workload and approval of the department heads, employees may take a 15-minute break both in the mid-morning and mid-afternoon. The schedule for breaks shall be staggered so that the department work schedule shall not be interrupted. Breaks may not be combined, accumulated, or used as extensions of lunch breaks. Breaks may not be used to arrive late to work or leave early from work.

Sec. 19-132. Gifts and favors.

(a) No official or employee of the county shall accept any gift of substantial monetary value whether in the form of service, loan, thing or promise from any persons who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the county .

(b) No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.

(c) No official or employee shall grant in the discharge of duties any improper favor, service or thing of value.

Sec. 19-133. Political activity.

(a) Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and laws of the state and in accordance with the constitution and laws of the United States. However, no employee shall:

- (1) Engage in any political or partisan activity while on duty;
- (2) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- (3) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- (4) Coerce or compel contributions from another employee of the county for political or partisan purposes
- (5) Use any supplies or equipment of the county for political or partisan purposes; or



(6) Be a candidate for nomination or election to the office of the county commissioner.

(b) Any violation of this section shall be deemed improper conduct and shall subject the employee to disciplinary action under this policy.

Sec. 19-134. Expectation of ethical conduct.

(a) The proper operation of county government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

(b) As stewards of public resources and holders of the public trust, county employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

Sec. 19-135. Outside employment.

The work of the county shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's department head, which in turn will report it to the county manager. The county manager will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. Conflicting or unreported outside employment are grounds for disciplinary action up to and including dismissal.

Sec. 19-136. Dual employment.

A full or part-time employee of the county may simultaneously hold another position with the county if the temporary position is in a different department and clearly different program area from that of the full or part-time position. However, the work of the full or part-time position shall take precedence over the temporary position, and such work will not count toward the calculation of overtime for pay or time off.

Sec. 19-137. Employment of relatives.

(a) The county prohibits the hiring and employment of immediate family in permanent positions within the same work unit. The county also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: county board of commissioners member, county manager, deputy county manager, finance officer, human resources director, county clerk, or county attorney. Otherwise, the county will consider employing family members or related persons in the service of the county, provided that such employment does not:

- (1) Result in a relative supervising relatives;
- (2) Result in a relative auditing the work of a relative;



(3) Create a conflict of interest with either relative and the county; or

(4) Create the potential or perception of favoritism.

(b) The term "immediate family" means, for the purpose of this section, spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

(c) This clause shall not be retroactive concerning any relative currently working for the county or anyone who has filed for election at the time of adoption.

(d) The board of commissioners shall approve the appointment by the sheriff or register of deeds of a relative by blood or marriage or nearer kinship than first cousin as required by G.S. 153-103(1).

Sec. 19-138. Harassment.

(a) Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The county opposes harassment by supervisors and coworkers in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his race, color, religion, gender, national origin, age, or disability, or that of his relatives, friends, or associates.

(b) "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(c) Any employee who believes that he may have a complaint of harassment may follow the grievance procedure described in article X of this chapter or may file the complaint directly with the county manager, human resources director, or any department head who will advise the human resources director of the complaint. The human resources director will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

(d) Employees witnessing harassment shall also report such conduct to an appropriate county official.

Sec. 19-139. Residency requirements.



(a) Any person hired or promoted, following adoption of this policy from which this chapter is derived, into the positions of assistant county manager, clerk to the board of commissioners or directors of finance, tax assessment; tax collection; emergency services; planning and inspections; elections; cooperative extension; information services; solid waste; maintenance; water and sewer; health and social services or any newly created department head level position must be residents of the geographic limits of the county except the county manager may temporarily waive this requirement as determined by the board of commissioners.

(b) All persons employed by the county in positions requiring on-call duty or emergency call duty must reside in such proximity of the county that may, without exceeding a safe speed, be present and available for duty within 60 minutes after notification.

Sec. 19-140. Use of county time, equipment, supplies, and vehicles.

(a) *County supplies and equipment.* County supplies and equipment are to be used exclusively for the county's business. During working hours, an employee shall only conduct county business. Use of county time, supplies, or equipment for personal or other purposes not related to the employee's county duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

(b) *Employees using county vehicles.* All employees, who use county vehicles, are required to follow applicable motor vehicle and safety requirements. Violation or misuse of county vehicles also subjects the employee to disciplinary action, up to and including dismissal.

(1) *Fleet safety policies.*

Edgecombe County

Fleet Safety Policy Statement

The purchase, use, and maintenance of motor vehicles is essential in delivery of services to the residents of Edgecombe County. Accidents involving these vehicles can significantly impair the resources of this organization in terms of injury, suffering and property damage. Add the cost of unnecessary repairs due to lack of preventive maintenance and abuse, and the size of this cost becomes even larger. Motor vehicle accidents are preventable. Vehicle maintenance costs can be reduced through strict preventive maintenance and proper operational procedures. It is the policy of Edgecombe County that all employees comply with all elements of the fleet safety program and drive in a defensive manner at all times.

(c) *Internet and e-mail usage.*

(1) Employees have an obligation to use their access to internet and e-mail communication in a responsible and informed way to perform research and acquire information related to or designed to facilitate the performance of regular assigned duties, communicate with fellow employees regarding matters within an employees' assigned duties; transfer files and other information related to assigned duties and facilitate performance of any task or project in a manner conforming to network etiquette, customs and courtesies and representing the county in a



positive manner. Prohibited uses includes but is not limited to: illegal activities, threats, harassment's, slander, defamation, prolonged personal use, obscene or suggestive images or offensive graphical images, sending or soliciting sexually oriented messages or commercial activities.

- (2) Employees will have no expectation of privacy in both sending and receiving electronic messages and information on the internet or via e-mail. Employees should be aware any stored data on systems and equipment of the county are subject to auditing and inspection at any time. Violation of this and other supplemental internet policies as distributed by the county is subject to disciplinary action up to and including dismissal.

(Ord. of 5-2-2005(1), § 1)

Sec. 19-141. Performance evaluation.

(a) Performance evaluations are an essential part of a productive work environment. Supervisors and employees must agree on future goals and objectives. It helps employees to identify their strengths and recognize their developmental needs. It also serves to motivate and stimulate accomplishment of overall departmental goals.

(b) Each year all general county employees will be evaluated by their immediate supervisor, department head, or designee. New employees will be evaluated at the end of their nine-month probationary period. Each employee will have input in and discussion around his evaluation report that he signs and is placed in the employee's personnel file. Employees may file an appeal of their performance rating in accordance with article X of this chapter.

(c) The county manager evaluates department heads and directors.

(d) These performance evaluations shall be documented in writing and placed in the employee's personnel file. The county manager shall publish procedures for the performance evaluation program.

Sec. 19-142. Safety.

(a) Safety is the responsibility of both the county and employees. It is the policy of the county to establish a safe work environment for employees. The county shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department heads and supervisors are responsible for ensuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety-training programs. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

(b) The county manager may establish additional detailed procedures regarding safety, worker's compensation, injury, and infection control.

Sec. 19-143. Immigration law requirements.



All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed I-9 form shall be a permanent part of their personnel file.

Sec. 19-144. Substance abuse.

The county is firmly committed to maintaining a drug and alcohol free work environment in order to ensure the safety and welfare of the general public and all county employees and to insure an efficient and effective work force. The county also seeks to aid employees experiencing substance abuse problems by offering rehabilitation opportunities. The county manager has the authority to establish, administer, and enforce substance abuse processes and procedures within the county.

Sec. 19-145. Travel rules and regulations.

(a) *Reimbursement.* The policy of the county is to reimburse employees traveling on authorized county business for work related expenses incurred as a result of the travel. Each Department Head is responsible for authorization of employee travel and the reimbursement of travel expenses in accordance with procedures issued periodically by the Finance Department. The county manager shall authorize and approve travel for Department Heads.

(b) *County vehicle use.* A county vehicle shall be used for official county business only. If a county vehicle is involved in an accident, the county managers' office and respective department heads must be notified within 24 hours after the accident. Additionally, the vehicle should not be moved until after the accident has been investigated by law enforcement officers.

(c) *Authorization.* The county manager must authorize travel on official county business outside of the state. A request for travel must describe the travel requested, the purpose of the proposed trip, the period of time away from the county and approval of the department head, if applicable and the county manager.

(d) *Reimbursement.* Employees and officials traveling on a reimbursable basis for the county will keep accurate records of expenses, date of departure and return to and from destination. Receipts for the cost of hotel, meals, and other travel expenses must be attached to the employee's signed travel claim and submitted to the employee's department head for reimbursement (in cases of department heads, submit to the county manager).

(e) *Limitations on reimbursement.* An employee on official county business may be reimbursed for travel within or away from the county. He will be reimbursed for certain items as follows:

- (1) Total cost of operation and maintenance of official county vehicle; travel by personal car is at a mileage rate that is determined annually by the board of commissioners; approved actual cost of travel by public transportation.
- (2) Living expenses for all room and board for trips outside of the county and special expenses paid from personal funds such as parking fees, tools, registration fees and other related expenses.



(f) *Training expense.* When an employee or official is attending an authorized job related training program, expenses such as tuition, books, and travel to and from the training events are covered.

(g) *Reimbursement for lunch.* No reimbursement will be made for lunch within the county unless a meeting is held within a facility in the county whereby a minimum number of meals must be purchased in order to use the facility or in cases where employees are required to attend such functions in their course of work.

Secs. 19-146--19-170. Reserved.

ARTICLE VI.

EMPLOYEE BENEFITS

Sec. 19-171. Eligibility.

All full-time and part-time employees of the county are eligible for employee benefits as provided for in this article which are subject to change at the county's discretion. Temporary employees are eligible only for workers' compensation and social security.

Sec. 19-172. Group health and hospitalization insurance.

(a) The county provides group health and hospitalization insurance programs for permanent full-time and part-time employees, including probationary employees.

(b) Full premium costs for the full-time permanent and probationary employee will be borne by the county. Dependents of employees may be enrolled in the program upon request and in accordance with provisions of the insurance contracts at the employee's own expense. New employees shall become eligible for coverage the month after their first payroll check.

(c) Permanent part-time employees who work 80 hours or more per month will become eligible for group health insurance participation with coverage beginning the month after their first payroll check. The county will pay the percentage of the employee's premium as related to the percentage of hours worked during a regular month while the balance will be borne by the employee. Dependents of employees may be enrolled in the program upon request and in accordance with provisions of the insurance contracts at the employee's own expense.

(d) Any employee, who by reason of extended illness has exhausted his sick leave, vacation, etc. and is carried on the payroll in a nonpay status will have their membership in the county's group insurance carried at the county's expense for one month for each year of service with the county up to a maximum of six months which shall run concurrently with the entitlements under FMLA. This shall not apply to the group insurance for dependents which must be paid at all times by the employee either by payroll deduction or cash in advance. If an employee is ill for a longer time than the above period, he may have his membership continued to a maximum of one year, if the insuring company permits; provided the employee pays the premium in advance to the county.



(e) Upon retirement, county employees may continue their participation in the group health insurance program. Employees retiring from the county with 30 years of service with the North Carolina Retirement System and at least five years continuous county service are eligible for continued health and dental coverage provided 100 percent at the county's expense until reaching age 65 or becoming Medicare eligible, whichever occurs first. Dependents of post-retirement employees enrolled in the county's program may continue their enrollment upon request and in accordance with the provisions of the insurance contracts at the employee's own expense with premiums payable monthly to the county. The board of commissioners from time to time may make other benefits available.

(f) Federal law (Public Law 99-272, title X) requires that employers sponsoring group health plans offer their employees and their families the opportunity for a temporary extension of health coverage (continuation coverage) at group rates in certain instances where coverage under the plan would otherwise end.

(g) An employee of the county covered by the group health plan has the right to choose continuation coverage for them and their covered dependents, if the employee loses his group health coverage because of a reduction in his hours of employment or the termination of their employment (for reasons other than gross misconduct on the employee's part).

(h) The spouse of an employee covered by the group health plan has the right to choose continuation coverage for themselves (and dependents, if applicable) if group health coverage is lost for any of the following three reasons:

- (1) The death of the employee's spouse;
- (2) Divorce or legal separation from the employee's spouse; or
- (3) The employee becomes eligible for Medicare.

(i) A dependent child covered by the county's group health plan has the right to continue coverage if group health coverage is lost for any of the following reasons:

- (1) The death of a parent;
- (2) A parent becomes eligible for Medicare; or
- (3) The dependent ceases to a "dependent child" under the group health plan.

(j) Under the law, the employee or family member has the responsibility to inform the group administrator of a divorce, legal separation, or a child losing dependent status under the group health plan. The employee's management has the responsibility to notify the group administrator of an employee's death, termination of employment or reduction in hours, or Medicare eligibility.

(k) When the group administrator is notified that one of these events has happened, he will in turn notify the employee that he has the right to choose continuation coverage. Under the law, an employee has at least 60 days to inform the group administrator of wanting continuation coverage.



(l) If an employee does not choose continuation coverage, his group health insurance will end.

(m) If the employee chooses continuation coverage, the county is required to give coverage, which is identical to the coverage provided under the plan to similarly situated employees or family members. The new law requires that dependents be afforded the opportunity to maintain continuation coverage for three years. The required continuation coverage period is 18 months for employees who lose group health coverage because of employment termination or reduction in hours. However, the new law also provides that continuation coverage may be cut short for any of the following four reasons:

(1) The county no longer provides group health coverage to any of its employees;

(2) The premium for your continuation coverage is not paid;

(3) The employee becomes covered under another group health plan;

(4) The employee becomes eligible for Medicare.

(n) The employee does not have to show that the employee is insurable to choose continuation coverage. However, under the law, an employee may have to pay all or part of the premium for continuation coverage. The new law also says that, at the end of the 18 months or three-year continuation coverage period, an employee must be allowed to enroll in an individual conversion health plan.

(o) Information concerning cost and benefits shall be available to all employees from the human resources office.

Sec. 19-173. Group life insurance.

The county provides paid life insurance to its employees. Information on costs, coverage, and benefits are available from the human resources director.

Sec. 19-174. Other optional group insurance plans.

The county may make other group insurance plans available to employees upon authorization of the county manager or county board.

Sec. 19-175. Retirement benefits.

(a) Each employee who is expected to work for the county more than 1,000 hours annually shall join the state local governmental employees' retirement system when eligible as a condition of employment.

(b) Employees contribute, through payroll deduction, six percent of their gross salary to the system. The county contributes an actuarially determined percentage of the gross payroll each month to the system.

(c) Provisions of this system are further outlined in the state local government employees' retirement



system handbook available from the human resources office.

(d) Employees who retire with 30 years in the local, state or teachers government retirement system with at least five or more years' of continuous service to the county immediately before retirement are eligible to receive major medical insurance paid by the county until they reach age 65 or become eligible for Medicare, whichever occurs first.

Sec. 19-176. Supplemental retirement benefits (401-K).

(a) Permanent full-time and eligible part-time employees may participate at their option in the county's deferred compensation program, whereby each employee may set aside a portion of their income up to a percent determined in accordance to current IRS regulations. Both federal and state taxes are deferred under this program until that point in time when the funds are withdrawn. Payroll deduction of the deferred amount will begin the month after each sign-up period. This money may be withdrawn only through the following means:

- (1) Retirement;
- (2) Termination of employment;
- (3) Death;
- (4) Disability; or
- (5) Extreme unforeseen hardship (as determined by a local committee).

(b) The county provides a percentage contribution to a 401K plan for all permanent full-time and part-time general county employees as annually determined by the board of commissioners. Elected officials compensated by the county shall have the option of either having the percentage contribution determined annually by the county contributed to a 401K plan or having such annual contribution added to annual compensation and paid in the same manner in which annual compensation is paid.

(c) The county also provides contributions of five percent to a 401K plan for active law enforcement personnel as required by the state. The county also pays a monthly separation allowance to retired law enforcement officers as required by state statutes.
(Ord. of 2-6-2006(2), § 1)

Sec. 19-177. Social security.

The county, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees and eligible groups and classes of such employees.

Sec. 19-178. Workers' compensation.

- (a) All county employees (full-time, part-time, and temporary) are fully covered by the North



Carolina Workers' Compensation Act (G.S. 97-1 et seq.) and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

(b) Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee and the supervisor and the employee must file such claims with the state industrial commission within two years from date of injury. The human resources director or designee will coordinate the filing of such claims.

Sec. 19-179. Unemployment compensation.

County employees are covered by unemployment insurance. County employees who are terminated due to a reduction in force or released from county service may apply for benefits through the local employment security commission office, where a determination of eligibility will be made.

Sec. 19-180. Training and educational incentive program.

(a) It is the policy of the county to ensure that employees are provided the necessary training to ensure that employees have the requisite knowledge and skills to perform the job. Training may include on-the-job training and/or support to attend conferences, workshops, seminars, etc.

(b) Training needs will be assessed annually for employees and training programs planned and offered to meet the identified needs within the funding available. Employees having the same duties and responsibilities and identified training needs will be given equal training opportunities. Priority for training will be on meeting essential training needs to assure that employees can perform the duties of their current job. A process for identifying and notifying employees of opportunities as well as a tracking system for training opportunities, means of communication and participation will be maintained by the human resources office.

(c) Upon prior approval of the department head and the county manager, an employee who successfully completes the requirements for one of the following degrees, in a field of education directly relating to the employee's job, during his employment with the county, as evidenced by a transcript with a "C" average or better and a diploma, will be rewarded with a one-time payment as follows:

Achievement	Percent of annual salary
High School or Equivalency	2.0
Two year program degree	3.0
Four year program degree	4.0
Graduate degree	6.0

(d) Employees required to obtain job specific certifications may be eligible for a one-time payment based on a predetermined supplemental policy developed by the department head and county manager. A copy of these policies must be on file in the human resources office and updated annually.

Sec. 19-181. Credit union.



Membership in the Local Government Employees' Credit Union is open to all county employees for various loan services, checking, and savings accounts. Membership in the State Employees' Credit Union is open to all employees under the State Personnel Act (G.S. 126-1 et seq.) and their family members for various loan services, checking, and savings accounts. Payroll deduction is available for participating employees.

Sec. 19-182. Retired law enforcement officer conditions for special separation allowance.

In accordance with the action of the North Carolina General Assembly (G.S. 143-166.42), the county will determine the eligibility of an applicant for the special separation allowance for law enforcement officers and the following terms and conditions for that allowance will apply:

- (1) Edgecombe County will calculate the annual separation allowance using the formula (last annual salary x 0.85 percent x years of creditable service).
- (2) Last annual salary means last yearly rate of pay. It does not include payments for longevity, holidays, overtime, educational achievements or any other additional compensation.
- (3) The monthly allowance will be equal to the annual allowance divided into 12 equal installments.
- (4) The North Carolina Local Government Employees Retirement System must certify the years of creditable service.
- (5) The monthly allowance shall be paid to the retiree via direct deposit with each regular payroll, beginning with the effective month of retiree's retirement and ending with the month the retiree reaches age 62, except as noted in subsection (6) below. The monthly allowance is "compensation" and is therefore subject to withholding for federal, state, and FICA taxes.
- (6) The separation allowance will terminate under the following conditions:
 - a. Upon retiree reaching age 62; or
 - b. Upon retiree's death; or
 - c. Upon retiree's re-employment in any capacity (fulltime, part time, temporary, permanent, contractual, etc.) by any local government participating in the N.C. local government employees retirement system.
- (7) If the separation allowance is terminated due to retiree's re-employment, it will not be re-instated by Edgecombe County, regardless of the length of service with retiree's new employer. However, the retiree may become entitled to a separation allowance from the new employer by working as a law enforcement officer a sufficient number of years to meet minimum eligibility requirements for the allowance.
- (8) The retiree shall notify Edgecombe County immediately if he/she is re-employed as described in



subsection (6)c. and the county will review the re-employment to determine if there is any conflict pursuant to subsection (6)c. Any attempt to conceal such re-employment for the purpose of avoiding termination of the separation allowance shall constitute fraud.

(Ord. of 7-12-2004)

Editors Note: Ord. of July 12, 2004, did not specifically amend the Code; hence, inclusion herein as § 19-182 was at the discretion of the editor.

Secs. 19-183--19-200. Reserved.

ARTICLE VII.

HOLIDAYS AND LEAVES OF ABSENCE

DIVISION 1.

GENERALLY

Sec. 19-201. Policy.

The policy of the county is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees in a regular position with county.

Sec. 19-202. Leave prorated.

Holiday, annual, and sick leave earned by full-time and part-time (at least half the hours of basic workweek) employees with fewer or more hours than the basic work week shall be determined by the following formula:

- (1) The number of hours worked by such employees shall be divided by the number of hours in the basic workweek (usually 40 hours).
- (2) The proportion obtained in step 1 shall be multiplied by the number of months that leave is earned annually by employees working the basic workweek.
- (3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.

Example: A permanent part-time employee works 20 hours per week and has been employed for three years.

- a. Twenty divided by 40 = 0.50.
- b. Twelve times .50 = 6.0.
- c. Six divided by .12 = 1/2 day per month.



Secs. 19-203--19-230. Reserved.

DIVISION 2.

HOLIDAYS

Sec. 19-231. Policy.

(a) The policy of the county is to follow the holiday schedule listed below. Each holiday is an eight-hour period:

- (1) New Year's Day.
- (2) Martin Luther King's Birthday.
- (3) Good Friday.
- (4) Independence Day.
- (5) Memorial Day.
- (6) Labor Day.
- (7) Thanksgiving Day, Thursday and Friday.
- (8) Christmas (two or three days).
- (9) Veterans Day.

(b) When a holiday other than Christmas Day falls on a Saturday or Sunday, Monday shall be observed as a holiday. The county manager or designee shall decide any conflict in the date of the holiday. The county manager shall designate the Christmas holidays each year depending on which day Christmas actually falls.

(c) The county manager will advise each department head of the upcoming yearly holiday schedule as to what days the county offices will be closed in observance of holidays.

When Christmas falls on:	County Observes
Sunday	Friday and Monday
Monday	Monday and Tuesday
Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday, Thursday and Friday



Friday	Thursday and Friday
Saturday	Friday and Monday

(d) In order to be eligible for holiday pay, an employee must work the day before and the day after the holiday(s), or have been granted approved leave. In order to be eligible for holiday pay, a permanent part-time county employee must be scheduled for that workday (the holiday) and will be credited for the hours that the employee would have normally worked on that day.

Sec. 19-232. Effect on other types of leave.

Regular holidays which occur during a vacation, sick or other paid leave period of any officer or employee of the county shall not be considered as vacation, sick, or other paid leave. Employees in a leave without pay status are not eligible for the paid holiday.

Sec. 19-233. Compensation when work is required.

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate on an hour for hour basis for the hours actually worked in addition to any holiday pay to which they may be entitled. Compensatory time shall be granted whenever feasible and taken within three months from the time it is earned unless special written permission is obtained from the department head. The county may, at its option, choose to pay for hours worked in lieu of time off.

Secs. 19-234--19-260. Reserved.

DIVISION 3.

VACATION LEAVE

Sec. 19-261. Use of; earned and accrued.

(a) Vacation leave may be used for rest and relaxation, school appointments, medical appointments, and other personal needs. Any compensatory time earned by the employee must be used prior to using vacation leave.

(b) Vacation leave is earned and accrued from the first day of employment. Employees beginning after the start of the payroll period will earn and accrue leave on a pro rata basis of the actual days worked in the pay period.

Sec. 19-262. Use by probationary employees.

Employees serving a probationary period may take up to three day's vacation leave during the probationary period with prior approval of the department head.

Sec. 19-263. Accrual rate.



Each full and part-time employee of the county shall earn vacation at the following schedule, prorated by the average number of hours in the workweek:

Years of Aggregate Service	Days Accrued Per Year	
	General & Agency Employees	Sworn Law Enforcement Officers
Less than 1	7.5	8
1 to less than 5	13.5	14.5
5 to less than 10	16.5	18
10 to less than 15	19.5	21
15 to less than 20	22.5	24
20 and over	25	27

Sec. 19-264. Maximum accumulation.

(a) Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. Effective the last payroll in the calendar year, any employee with more than 30 days (45 days for sworn law enforcement personnel) of accumulated leave shall have the excess accumulation removed so that only 30 days (45 days for sworn law enforcement personnel) are carried forward to January 1 of the next calendar year. Excess vacation leave as of December 31 will be transferred to an employee's sick leave account.

(b) Employees are cautioned not to retain excess accumulated vacation leave until late in the calendar year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the county manager may upon recommendation of the department head reschedule the taking of that leave into the next calendar year. In no event shall the rescheduled leave exceed 15 days.

Sec. 19-265. Manner of taking.

(a) Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the county. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation leave will be taken in fifteen (15) minute increments.

(b) An employee with advance department head approval may take earned vacation leave in short designated intervals that become part of the employee's regular work schedule.

Sec. 19-266. Payment upon separation.

(a) An employee who has successfully completed six months of the probationary period and is separated without failure in performance of duties or personal conduct, will normally be paid for accumulated annual leave upon separation subject to the 30 day maximum, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated annual leave. The county manager may waive the notice



requirement when deemed to be in the best interest of the county.

(b) For involuntary separation because of failure in performance of duties or personal conduct as outlined in article VIII, sections 19-361--19-363, accumulated vacation leave may be withheld at the discretion of the county manager at the time of an employee's separation. Any vacation leave owed the county shall be deducted from the employee's final compensation. If the check has already been written, the employee will be required to repay any over-payment or the paycheck may be withheld as well as any travel expenses due until such repayment has been made.

Sec. 19-267. Payment upon death.

The estate of an employee who dies while employed by the county shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximum of 30 days.

Secs. 19-268--19-290. Reserved.

DIVISION 4.

SICK LEAVE

Sec. 19-291. Use of; granted; reasons for use; supplemental use; notification for use.

(a) Sick leave with pay is not a right that an employee may demand, but a privilege granted for the benefit of an employee when sick.

(b) Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment or exposure to a contagious disease when continuing to work might jeopardize the health of others.

(c) Sick leave may be used when an employee must care for a member of his immediate family who is ill, but may not be used to care for healthy children when the regular caregiver is sick. Sick leave may also be used for death in the employee's immediate family, but may not exceed three days for any one occurrence, except by special permission of the department head or county manager.

(d) Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining salary, except that employees may not exceed their regular salary amount using this provision.

(e) The term "immediate family", as used in this section, shall be defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

(f) Notification of the desire to take sick leave should be submitted to the employee's supervisor before the leave or not later than 30 minutes after the beginning of the scheduled workday. Failure to do so appropriately may result in disciplinary action.



Sec. 19-292. Accrual rate.

(a) Sick leave is earned and accrued from the first day of employment.

(b) Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be prorated as described in section 19-202.

(c) All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the county, except as stated for employees retiring or terminated due to reduction in force.

(d) Any compensatory time earned by an employee shall be taken first prior to using the sick leave account. Sick leave shall be taken in 15 increments.

Sec. 19-293. Accumulation.

Sick leave will be cumulative for an indefinite period of time.

Sec. 19-294. Repayment for advanced sick leave.

This section was repealed October 7, 2002.

Sec. 19-295. Medical certification.

(a) The employee's supervisor or department head may require a physician's certificate stating the nature of the employee or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the department head deems desirable. The department head shall be responsible for the application of this provision to the end that:

(1) Employees shall not be on duty when they might endanger their health or the health of other employees; and

(2) There will be no abuse of leave privileges.

(b) Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.

Sec. 19-296. Retirement credit.

Sick leave may be converted upon retirement for service credit consistent with the provisions of the state local government employees' retirement system.



Secs. 19-297--19-320. Reserved.

DIVISION 5.

OTHER TYPES OF LEAVES

Sec. 19-321. Intergovernmental transfer of sick leave.

A new employee who leaves employment with a governmental unit under the local, state, teachers or law enforcement retirement systems of the state to accept employment with the county will be allowed to transfer previously accumulated sick leave (maximum 30 days) to their sick leave account with the county.

Sec. 19-322. Leave without pay.

(a) A permanent or probationary employee may be granted a leave of absence without pay for up to six months by the appointing authority; extension of up to three additional months may be granted where extenuating circumstances warrant such action by the appointing authority. The leave shall be used for reasons of personal disability after both sick leave and annual leave have been exhausted, sickness or disability of immediate family members, continuation of education, special work that will permit the county to benefit by the experience gained or the work performed, or for other reasons deemed justified by the county manager.

(b) The employee shall apply in writing to the supervisor/department head for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the appointing authority, including any approved extension. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall report the employee's decision to the appointing authority immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

(c) At the department head's discretion, the employee may be granted leave without pay in small increments.

(d) An employee who is on leave without pay status does not exempt that employee from any reduction in force policy, which may be implemented.

Sec. 19-323. Voluntary shared leave.

(a) In cases of an extended medical condition, an employee may request sick and/or annual leave donations from other county employees. Consenting employees may agree to have leave donations transferred from their accumulated sick and/or annual leave balances to the account of the requesting employee.

(b) All permanent full-time employees are eligible to participate in the voluntary shared leave program subject to the following rules and procedures:



- (1) Extended medical condition defined as a medical condition of an employee or immediate family member validated by a physician's statement, which requires the employee to be absent from work for more than one pay period.
 - (2) Immediate family member defined in subsection 19-291(e). The county manager must approve exceptions.
 - (3) Employee must have exhausted or expects to exhaust all paid leave (sick, compensatory and vacation) before receiving leave from donors.
 - (4) The human resources office will notify county employees of any special requests for donated leave following review and approval by committee.
 - (5) The employee requesting donations must sign a release to allow his request to be publicized and complete an application detailing the nature of his request.
 - (6) The maximum amount of donated leave an employee may receive from all donors is 520 hours (three months pay) in one calendar year. A physicians certificate must be submitted to the human resources office describing the medical condition and estimated length of time needed.
 - (7) An employee donating leave must maintain a combined accrued minimum balance of 360 hours (two months pay).
 - (8) A committee consisting of department heads and agency directors will review each request (application) for approval.
 - (9) An immediate family member donor may exceed the maximum contribution of vacation or sick leave (up to 1,040 hours) to another immediate family member provided the request for donated leave has been approved by the committee.
- (c) Additional guidelines relative to the shared leave program are available in the human resources office.

Sec. 19-324. Family Medical Leave Act and leave without pay; retention and continuation of benefits and medical certification.

(a) The county will grant up to 12 weeks of family and medical leave during any 12-month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). Eligible employees must have regular status and must have been employed at least 12 months and worked at least 1,250 hours during the previous 12 months. The leave may be paid (coordinated with the county's vacation and sick leave policies), unpaid, or a combination of paid and unpaid. Additional time away from the job beyond the 12-week period may be approved in accordance with section 19-322. Employees are required to exhaust eligible paid leave before going on a leave without pay status.

- (b) FMLA leave may be taken for the following reasons:



- (1) To care for the employee's child after birth or placement for adoption or foster care;
- (2) To care for the employee's spouse, child or parent who has a serious health condition; or
- (3) For a serious health condition that makes the employee unable to perform the employee's job.

(c) A "serious health condition" is defined as a condition, which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition, which requires continuing care, by a licensed health care provider. This policy covers illness of a serious and longterm nature resulting in recurring or lengthy absences. Generally, a chronic or longterm health condition, which results in a period of incapacity for more than three days would be, considered a serious health condition.

(d) If a husband and wife both work for the county and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

(e) An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation for the remainder of the 12-week period.

(f) An employee who takes leave under this section will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one, which entails substantially equivalent skill, effort, responsibility, and authority.

(g) In order to qualify for leave under this law, the county requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

(h) This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department head and filed with the human resources director.

(i) The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he has requested additional time in writing under section 19-322.

(j) When an employee is on leave under FMLA, the county will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the county will require the reimbursement of the amount paid for the employee's health insurance premiums during the FMLA leave period.



(k) Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

Sec. 19-325. Workers' compensation leave.

(a) When an employee is injured in the course of performing duties related to his job, he may draw benefits due under the North Carolina Workers' Compensation Act.

(b) An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act (G.S. 97-1 et seq.) may elect to use accrued sick leave or vacation during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin, provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the county's group insurance plans.

(c) Once an option has been selected by the employee, it cannot be changed during the period covered.

(d) Upon reinstatement, an employee will have his salary computed on the basis of his last salary plus any merit increment or other salary increase to which he would have been entitled during his disability covered by workers' compensation. An employee will retain all accumulated sick, vacation, and compensatory time while drawing workers' compensation payments in a leave without pay status.

(e) Temporary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act.

Sec. 19-326. Military leave.

Permanent employees who are members of an Armed Forces Reserve organization or National Guard will be granted ten workdays per year for military leave with pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a county employee, the employee shall receive partial compensation equal to the difference in the base salary earned during this same period as a county employee. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave with pay or with partial pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the county during this period. Permanent employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act, including members of the National Guard or a reserve unit. Employees who volunteer for additional duty may use vacation, compensatory time or leave without pay. If there is a compensatory balance, it should be used first for nonexempt employees.



Sec. 19-327. Reinstatement following military service.

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- (1) Applies for reinstatement within 90 days after the release from military service; and
- (2) Is able to perform the duties of the former position or similar position; or
- (3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the county. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Sec. 19-328. Civil leave.

(a) A county employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave.

(b) An employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the county any witness fees or travel allowance awarded by that court for court appearances in connection with official duties.

(c) While on civil leave, benefits and leave shall accrue as though on regular duty. In addition, civil leave may be used for employees to participate in giving blood at certain designated schedules at the Red Cross Bloodmobile.

Sec. 19-329. Parental school leave.

(a) A county employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve himself in school activities of his child(ren). This leave is subject to the three following conditions:

- (1) The leave must be taken at a time mutually agreed upon by the employee and the county;
- (2) The county may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- (3) The county may require written verification from the child's school that the employee was involved at the school during the leave time.



(b) Paid leave (vacation time) taken by an employee to attend to school activities of his child shall count towards the fulfillment of this provision by the county.

Sec. 19-330. Educational leave with pay.

(a) A leave of absence at full or partial pay during regular working hours may be granted to an employee to take a course or more courses which will better equip the employee to perform assigned duties upon the recommendation of the department head or appointing authority, and with the approval of the county manager.

(b) An employee granted such extended educational leave with pay shall agree to return to the service of the county upon completion of training and remain in the employ of the county for a period equal to twice the educational leave received, or the employee shall reimburse the county for all compensation received while on educational leave.

(c) An employee on educational leave with full pay shall continue to earn leave credits and other benefits to which county employees are entitled. An employee on educational leave with partial pay shall earn proportional leave credits.

Secs. 19-331--19-360. Reserved.

ARTICLE VIII.

SEPARATION AND REINSTATEMENT

Sec. 19-361. Types of separations.

All separations of employees from positions in the service of the county shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Sec. 19-362. Resignation.

(a) An employee may resign by submitting the reasons for resignation and the effective date in writing to the department head (or in the case of a department head to the county manager) as far in advance as possible. In all instances a minimum notice requirement of two weeks is expected of all resigning personnel. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the department head and approval by the county manager.

(b) Three consecutive days of absence without contacting the immediate supervisor or department head is considered a voluntary resignation. The supervisor or department head will make a reasonable effort to contact employee before invoking the voluntary resignation without notice provision.

Sec. 19-363. Reduction in force.



(a) In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks notice of the anticipated reduction in force action. No permanent employee shall be separated while there are temporary, trainee, probationary, intermittent or emergency employees serving in the same class in the department, unless the permanent employee is not willing to transfer to the position held by the nonpermanent status employee.

(b) Budgetary restriction, consolidation or abolishment of functions or organizational units, curtailment of work or activities or other reasons may result in the need to abolish a position or to substantially redesign a position. In so doing, the following factors are among those that may be considered in this determination.

- (1) Impact on overall program objectives;
- (2) Possible redistribution of available resources;
- (3) Organizational structure;
- (4) Funding sources;
- (5) Composition of the workforce;
- (6) Equal employment and affirmative action considerations; or
- (7) Economy and efficiency.

(c) Once factors such as those listed in subsections (b)(1) through (7) have been identified, the county manager, after consultation with the county commissioners shall identify specific classifications and positions for reallocation, reassignment and/or abolishment.

Sec. 19-364. Disability.

An employee who cannot perform the required duties because of a physical or mental impairment may be separated for disability. The employee or the county may initiate action. In all cases, such action shall be accompanied by medical evidence certified by a licensed physician acceptable to the department head and county manager. The county may require an examination, at the county's expense, performed by a physician of the county's choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the county's service for which the employee may be suited.

Sec. 19-365. Voluntary retirement.

An employee who meets the conditions set forth under the provision of the state local government employee's retirement system may elect to retire and receive all benefits earned under the retirement plan.



Sec. 19-366. Death.

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Sec. 19-367. Dismissal action.

The department head in accordance with the provisions and procedures of article X may dismiss an employee.

Sec. 19-368. Reinstatement.

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the supervisor and approval of the county manager. An employee who is reinstated in this manner shall be recredited with his previously accrued sick leave.

Sec. 19-369. Rehiring.

An employee who resigns while in good standing may be rehired with the approval of the appointing authority, and shall be regarded as a new employee, subject to all of the provisions of rules and regulations of this chapter. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

Secs. 19-370--19-400. Reserved.

ARTICLE IX.

UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Sec. 19-401. Policy.

(a) It is the policy of the county to provide a fair and consistent process for correcting and improving performance problems and to take necessary disciplinary action when performance does not improve or when incidents occur involving unacceptable personal conduct or grossly inefficient job performance. The intent of this process is to promote permanent improvement of performance if possible.

(b) Permanent employees of the county may be warned, given disciplinary suspension without pay, demoted and/ or dismissed for unsatisfactory job performance, grossly inefficient job performance, or personal conduct. The degree and type of action and sequence of actions is contingent upon the causal factors. Action is based upon sound and considered judgment of the appointing authority in accordance with provision of this article.

(c) The appointing authority must approve all cases of disciplinary suspension, demotion, or dismissal before giving final notice to the employee.



Sec. 19-402. Unsatisfactory job performance defined.

Unsatisfactory job performance includes any aspect of the employee's performance, which are not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- (1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- (2) Careless, negligent or improper use of county property or equipment;
- (3) Physical or mental incapacity to perform duties;
- (4) Discourteous treatment of the public or other employees;
- (5) Absence without approved leave;
- (6) Repeated improper use of leave privileges;
- (7) Habitual pattern of failure to report for duty at the assigned time and place;
- (8) Failure to complete work within time frames established in work plan or work standards; or
- (9) Failure to meet work standards over a period.

Sec. 19-403. Communication and warning procedures preceding; disciplinary action for unsatisfactory job performance.

(a) When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the supervisor.

(b) The degree and type of action taken shall be based on consideration of the facts of the incident. Two disciplinary actions are required prior to dismissal. The first disciplinary action for an incident of job performance is a written warning.

(c) Written warnings must state that it is a warning, specify the employee's conduct or performance deficiencies that are the reason(s) for the warning, specific performance or conduct improvements that are required to achieve satisfactory performance, time limits set for improvement, consequence of failing to make the required improvements, and right of appeal. The supervisor will record and send the information to the human resources director to file in the employee's personnel file. The county manager will be notified of all disciplinary action taken.

(d) If the employee's performance continues to be unsatisfactory, then the supervisor may issue a second warning, suspend without pay, or demote the employee. A predisciplinary conference is to be held in



accordance with article IX, section 19-407.

(e) If unsatisfactory performance continues, dismissal action may be taken after at least two disciplinary actions, which may be for unsatisfactory job performance, grossly inefficient performance, or unacceptable personal conduct, have been taken. A predissmissal conference is to be held before dismissal in accordance with article IX, section 19-407. The county manager will be notified of all disciplinary action taken.

Sec. 19-404. Grossly inefficient job performance defined.

The term " grossly inefficient job performance" exists when job performance is so unsatisfactory that it:

- (1) Causes or results in death or serious injury to employee, members of the public or to persons for whom the employees have responsibility;
- (2) Results in the serious loss of or damage to county property or funds adversely impacting the county and/or the work unit; or
- (3) Failure to obtain or maintain legally required certificates, licenses, bonds or other credentials.

Cross References: Definitions generally, § 1-2.

Sec. 19-405. Unacceptable personal conduct.

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the county may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of the government may be or have been violated. Unacceptable personal conduct may be created by intentional or unintentional acts, and may be job related or off duty as long as there is a sufficient connection between the conduct and the employee's job. Examples of detrimental personal conduct include, but are not limited to, the following:

- (1) Conduct for which no reasonable person should expect to receive prior warning;
- (2) Fraud or theft;
- (3) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- (4) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- (5) Willful misuse or gross negligence in the handling of county funds;
- (6) Willful or wanton damage or destruction to property;
- (7) Willful or wanton acts that endanger the lives and property of others;
- (8) Possession of unauthorized firearms or other lethal weapons on the job;



- (9) Brutality in the performance of duties;
- (10) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- (11) Engaging in incompatible employment or servicing a conflicting interest;
- (12) Request or acceptance of gifts in exchange for favors or influence;
- (13) Engaging in political activity prohibited by this chapter;
- (14) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations; or
- (15) The abuse of clients or persons over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the county.

Sec. 19-406. Disciplinary action for grossly inefficient job performance and unacceptable personal conduct.

(a) When an incident of grossly inefficient job performance or unacceptable personal conduct occurs, the department head must consider the severity of the incident and may issue a warning, suspend without pay, demote or dismiss. No warning or other disciplinary action is required prior to dismissal. A predisciplinary conference shall be conducted with the employee prior to disciplinary action. Advance notice of the predisciplinary conference should be given as much as practical under the circumstances. Refer to sections 19-407 and 19-409.

(b) An employee may be suspended immediately by the department head for causes related to gross inefficiency of performance or personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head takes immediate suspension action with an employee, the employee shall be required to leave county property at once and remain away until further notice. The department head shall notify the county manager immediately. A written summary giving the circumstances and facts leading to the immediate suspension, and setting a conference time and location shall be prepared; one copy shall be delivered to the employee by certified mail, one copy shall be filed in the employee's personnel file, and one copy shall be filed with the county manager

Sec. 19-407. Predisciplinary conference; predissmissal conference; communication.

(a) *Predisciplinary conference.* Before any disciplinary action is taken, whether for grossly inefficient job performance, unacceptable personal conduct, or unacceptable performance, the department head shall provide the employee with a written advance notice of the proposed disciplinary action, which will include the proposed disciplinary action being considered, it's recommended effective date, the reason(s) for the action in numerical order along with appeal rights and a date and time for a predisciplinary conference. If demotion is the disciplinary action being considered the notice will include the change that will occur in the employee's salary rate and/or pay grade. A copy of this statement is to be filed with the county human resources office. At



the pre-disciplinary conference, the employee may present any response to the proposed disciplinary action to the department head. The department head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days after the predisciplinary conference, notify the employee in writing of the final decision to take disciplinary action.

(b) *Predissmissal conference.* If the conference is for purpose of dismissal, the department head shall give the employee a statement of the specific reasons for the dismissal, and the employee's appeal rights under the county's grievance procedure. The purpose of the predisciplinary conference involving dismissal is to review the recommendation, consider information put forth by the employee in order to ensure that a dismissal decision is sound and not based on misinformation. A second management representative shall be present at the conference; and at the discretion of management security personnel may be present when the need for security exists. The department head will review and consider the employee's response and reach a decision on the proposed dismissal action. The effective date of the dismissal shall be no earlier than the letter of dismissal nor more than 14 calendar days after the notice of dismissal.

(c) *Communication.* The notice of final disciplinary action shall contain a statement of the specific reason for the action, the effective date of the action, and the employee's appeal rights. The county manager has the final approval on dismissal action. The final letter of dismissal will be issued to the employee in person or by certified, return receipt, mail.

Sec. 19-408. Disciplinary suspension.

(a) An employee may be suspended without pay as a disciplinary action for job performance, grossly inefficient performance or personal conduct reasons. In incidents involving job performance a warning is required before the employee can be suspended.

(b) A disciplinary suspension without pay must be for at least one full work week and not more than two work weeks for salaried employees exempt from the Fair Labor Standards Act. For all other employees suspension without pay shall be for a minimum of one day, but not more than two workweeks.

Sec. 19-409. Investigatory suspension with pay.

(a) Investigatory suspension with pay may be used to provide time to investigate, establish facts, and reach a decision concerning deficiencies that would constitute just cause. Investigatory suspension with pay may be appropriately used to provide time to schedule and hold a predissmissal conference. In addition, the county may elect to use an investigatory suspension with pay in order to avoid undue disruption of work or to protect the safety of persons or property. Written notice of investigatory placement with pay should be provided the employee within 48 hours of being placed in suspension status. The letter shall explain what the action is, potential length and instructions to remain available during business hours in case they need to be contacted. An investigatory suspension with pay shall not exceed 30 calendar days. If no action has been taken by management by the end of 30 calendar days, one of the following must occur: reinstatement of the employee; or appropriate disciplinary action based on the results of the investigation.

(b) Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter



involving the employee.

(c) An employee who has been suspended for investigatory reasons may be reinstated with up to three-day's pay deducted from his salary. The decision to deduct pay is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for suspension. This period constitutes a disciplinary suspension without pay and must be effected in accordance with sections 19-406 and 19-407.

(d) If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

(e) If the employee is dismissed, the final letter of dismissal shall contain a statement of the specific reasons for the dismissal, effective date of appeal.

Sec. 19-410. Dismissal relating to credentials.

(a) State statutes and local rules may require specific licensure, registration or certification as defined on the recruitment requirements component of the specification (job description) for the class of work. Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule or ordinance. Failure to obtain or maintain the required credentials constitutes a basis for immediate dismissal without prior warning, in accordance with appropriate provisions of this article. Falsification of employment credentials or other documentation in connection with securing employment shall also result in dismissal of the employee.

(b) In cases of an employee providing false or misleading information, but not involving legally required licensure, registration or certification, department heads shall take disciplinary action deem appropriate.

Sec. 19-411. Employee appeal.

An employee wishing to appeal a demotion, suspension without pay or dismissal may present the matter using the grievance procedure prescribed in article X of this chapter.

Secs. 19-412--19-440. Reserved.

ARTICLE X.

GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Sec. 19-441. Policy.

(a) It is the policy of the county to provide a just and prompt procedure for the presentation,



consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to ensure all employees that a response to their complaints and grievances will be prompt and fair.

(b) In order to create a work environment that is professionally satisfying to its employees and operates in an efficient and effective manner, it is important to have a process to resolve differences of opinion and perception which may arise within the performance of work.

Sec. 19-442. Grievance defined.

(a) The term "grievance" means a claim or complaint by an employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

(b) Employees utilizing the grievance procedure shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under the grievance procedure. Supervisors or other employees who violate this section shall be subject to disciplinary action up to and including dismissal.

Cross References: Definitions generally, § 1-2.

Sec. 19-443. Purposes of the grievance procedure.

The purposes of the grievance procedure include, but are not limited to:

- (1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without fear of reprisal through open expression and communication;
- (2) Encouraging employees to express themselves about the conditions of work that affect them as employees;
- (3) Promoting better understanding of policies, practices, and procedures that affect employees;
- (4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- (5) Increasing the sense of responsibility exercised by supervisors and improving their effectiveness in dealing with their employees;
- (6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- (7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the county or its leaders, thus freeing up employee motivation, productivity, and creativity.

Sec. 19-444. Grievance procedure.



(a) When an employee or group of employees has a grievance, the following successive steps listed in subsection (b) of this section are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the appointing authority before the decision becomes effective.

(b) Informal resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the human resources office as a resource to help resolve the grievance.

- (1) *Step 1.* If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the supervisor in writing. The grievance must be presented within ten working days of the event or within ten working days of learning of the event or condition. The supervisor shall respond to the grievance as soon as possible, but within ten working days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the county in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from each supervisory level for each step in the formal grievance process shall be in writing and signed and dated by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the human resources director.

- (2) *Step 2.* If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal in writing, to the agency director or department head within five working days of receipt of the supervisor's decision. The employee will cite specific reasons for the appeal. The department head shall respond to the appeal, stating the determination of decision within five working days after receipt of the appeal.
- (3) *Step 3.* If the grievance is not resolved to the satisfaction of the employee by the department head or agency director, the employee may elect to appeal to the county manager within five working days after receipt of the response from step 2. The appeal must be submitted in writing. On appeals to the county manager, the manager shall respond to the appeal and will make a decision within ten working days. The manager may meet with the employee to discuss the grievance fully before making a decision. The county manager's decision is final. However, the county manager should inform the county board of commissioners of any possible legal actions. Any appeal of this decision must be made through the state court system where applicable.

Special note: The sheriff and register of deeds will carry out the responsibilities designated as the county manager in their respective departments.



Sec. 19-445. Role of the human resources director.

Throughout the grievance procedure, the roles of the human resources director shall be as follows:

- (1) Advise parties (including employee, supervisors, and county manager) of their rights and responsibilities under this chapter, including interpreting the grievance and other policies for consistency of application;
- (2) Be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents;
- (3) Give notices to parties concerning timetables of the process, etc.;
- (4) Assist employees and supervisors in drafting statements; and
- (5) Facilitate the resolution of conflicts in the procedures of the grievance at any step in the process; and

the human resources director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Sec. 19-446. Grievance and adverse action appeal procedure for discrimination or unlawful workplace harassment based on discrimination.

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e., is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability) the employee has the right to appeal directly to an appeals board. The human resources director will assist the person by providing the proper name and address of the board chairperson. A permanent county employee has the right of appeal using the grievance procedure outlined in this article and is encouraged to use the grievance procedure, or may appeal directly to the appeals board. An employee, former employee, or applicant must appeal an alleged act of discrimination within 30 calendar days of the alleged discriminatory action.

Sec. 19-447. Appeals board for appeals based on discrimination.

(a) *Appointment.* An appeals board shall be appointed by the board of county commissioners and shall be responsible to make the decision in alleged discrimination appeals in accordance with G.S. 126-1 et seq. and state rule 11.2404. The appeals board shall consist of five persons appointed by the board of county commissioners, and the make-up shall include at least one member chosen to represent the employees of the county. Appointments shall exclude the county attorney, incumbent county commissioners or their family members or relatives. The county manager may serve as a voting member of the appeals board, but shall not serve as chairperson.

(b) *Access to counsel.* The appeals board shall have access in its meetings and deliberations the counsel of a private attorney, not associated or engaged professionally in any transaction of the county that would create a conflict of interest.



(c) *Procedure.* Before the board's consideration of a case, a hearing's examiner appointed by the county shall conduct an evidentiary hearing. The hearing examiner shall submit a written disclosure of findings and facts to the appeals board, along with his recommendations. The hearing examiner has the power to subpoena witnesses, principals, or other parties relevant to a fair and vigorous pursuit of a recommendation.

(d) *Proceedings recorded.* Proceedings of the appeals board shall be recorded. At its discretion, the appeals board may furnish a transcript of the hearing upon request.

(e) *Completion of hearings process.* The evidentiary hearings process should be completed as soon as possible, but no later than two months after the date of filing, and the appeals board shall consider the case and render a decision no later than 30 working days after receipt of the hearing officer's report of findings and facts and recommendation.

(f) *Decisions in writing.* Decisions of the appeals board shall be issued in writing and maintained in the county human resources office.

Sec. 19-448. Back pay awards.

Back pay and benefits may be awarded to reinstated employees in suspension without pay, demotion, dismissal, and discrimination cases.

Secs. 19-449--19-470. Reserved.

ARTICLE XI.

PERSONNEL RECORDS AND REPORTS

Sec. 19-471. Personnel records maintenance.

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the human resources director. The county shall maintain in personnel records only information that is relevant to accomplishing personnel administration.

Sec. 19-472. Public information and access.

(a) In compliance with G.S. 153A-98, the following information with respect to each county employee is maintained and is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the county may adopt.

(b) The following provisions shall govern access to such information:



- (1) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; and dates information requested. This information must be retained for a period of years.
- (2) Upon request, records of disclosure shall be made available to the employee to whom it pertains.
- (3) An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.
- (4) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Sec. 19-473. Access to confidential records.

(a) All information contained in a county employee's personnel file, other than the information of this Article specified above will be maintained as confidential in accordance with G.S. 153A-98 and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (5) An official of an agency of the state or federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such inspection is deemed by the county manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability.

However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

- (6) Each individual requesting access to confidential information will be required to submit



satisfactory proof of identity.

- (7) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).
- (8) An employee may sign a written release to be placed in his personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (9) The county manager, with the concurrence of the county board, may inform any person of the employment, nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a county employee, and the reasons for that action. Before releasing that information, the county manager shall determine that the release is essential to maintaining the level and quality of county services. The written determination shall be retained in the county manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

(b) The county board shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to material may seek to have the material removed from the file or may place in the file a statement relating to the material.

Sec. 19-474. Personnel actions.

The human resources director, with the approval of the county manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the human resources office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents. Any documents not contained nor maintained in these files as designated by the human resources director is not an official part of the personnel file.

Sec. 19-475. Records of former employees.

The provisions for access to records apply to former employees as they apply to present employees.

Sec. 19-476. Remedies of employees objecting to material in file.

An employee who objects to material in his file may place a statement in the file relating to the material considered inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

Sec. 19-477. Penalties for permitting access to confidential records.



G.S. 153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the state statutes.

Sec. 19-478. Examining and/or copying confidential material without authorization.

G.S. 153A-98 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the state statutes.

Sec. 19-479. Destruction of records regulated.

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121.5(b), without the consent of the state department of cultural resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in G.S. 132.3.

Secs. 19-480--19-500. Reserved.

ARTICLE XII.

IMPLEMENTATION OF POLICIES

Sec. 19-501. Conflicting policies repealed.

All policies, ordinances, or resolutions that conflict with the provisions of this chapter are hereby repealed.

Sec. 19-502. Separability.

If any provision of this chapter or any rule, regulation, or order thereunder of the application of such provision to any person or circumstances is held invalid, the remainder of this chapter and the application of such remaining provisions of this chapter of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.



Chapter 20

ROADS*

* **Cross References:** Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc. any street or public way in the county saved from repeal, § 1-10(6); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-10(9); any ordinances levying or imposing taxes not included in this Code saved from repeal, § 1-10(13); any ordinance establishing or prescribing street grades saved from repeal, § 1-10(14); buildings and building regulations, ch. 6; environment, ch. 10; utilities, ch. 26.

State Law References: Roads and bridges, G.S. 153A-239 et seq.

Article I. In General

Secs. 20-1--20-30. Reserved.

Article II. Addressing Public and Private Roads

Sec. 20-31. Purpose and authority.

Sec. 20-32. Definitions.

Sec. 20-33. Relationship of GIS (geographic information system) to house numbering in the county.

Sec. 20-34. Administration and application.

Sec. 20-35. County address guidelines.

Sec. 20-36. County address schematic procedures.

Sec. 20-37. Naming roads and assignment of new addresses.

Sec. 20-38. Enforcement and standards.

ARTICLE I.

IN GENERAL

Secs. 20-1--20-30. Reserved.

ARTICLE II.

ADDRESSING PUBLIC AND PRIVATE ROADS*

* **State Law References:** Naming roads and assigning street numbers in unincorporated areas, G.S. 153A-239.1.

Sec. 20-31. Purpose and authority.

(a) The purpose of this article is to establish a consistent and coherent system and to establish an official process by which roads are named and signed, addresses are assigned and displayed, and the addressing system is maintained.

(b) Addresses will be assigned to all addressable structures within the county governmental jurisdiction in order to facilitate and enhance the location of individual addresses, increase public safety, and decrease emergency response time.



(c) The provisions of this article are adopted under the authority and in accordance with G.S. 153A-239.1.
(Ord. of 8-12-1993, § 1)

Sec. 20-32. 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:

Address schematics means the county system generated by the geographic information system based computer grid plan and used to assign starting numbers on both public and private roads.

Addressable structure means a structure having a roof supported by columns or walls for the shelter, support or equipment contained as part of a commercial business operation. For the purpose of this article, the term "addressable structure" may also include other manmade facilities in keeping with the spirit and intent of this article.

E 911 committee means the following: EMS, planning department, the tax assessor, mapping (GIS) and data processing.

Geographic information system (GIS) means a system of computer hardware, software, and procedures designed to support the capture, management, manipulation, analysis and display of spatially referenced data designed to solve complex planning and management problems.

Road means as defined in G.S. 153A-238.
(Ord. of 8-12-1993, § 2)

Cross References: Definitions generally, § 1-2.

Sec. 20-33. Relationship of GIS (geographic information system) to house numbering in the county.

(a) The basis of the house numbering project is not to inconvenience citizens, but to provide a logical and sequential assignment of a number. This number assignment will become an integral part of the county's geographical information system (GIS).

(b) GIS is a computer mapping system which has analytical capabilities. GIS computes the distance of all the county's roads. When asked to locate any of the sequentially assigned numbers, GIS can instantly determine a value for that specific geographic location and can dispense information relative to that address.

(c) Very important in such application is an emergency dispatch system (E 911). This is such a system designed by the telephone company which displays on a computer screen the address from which the call is coming. GIS will add a third crucial element: in addition to the telephone number and address of the caller, the computer console will precisely locate that address in the county. It will pinpoint the exact road and display of the incoming call. It will determine the shortest route available to the nearest emergency vehicle. This is made possible because of the added dimension GIS gives the dispatch system. It actually contains the



coordinate values of that address and locates its physical position on the earth's surface.

(d) To work efficiently and economically GIS must perform within the framework of a logically and sequentially planned system. The equal interval system used by the county in assigning street addresses is such a system. Vacant land is held in reserve for axes, or roads, which split the county into four quadrants which form the basis of the numbering system. The further one moves in any direction from the intersection of these axes, the higher the number becomes.

(e) Existing addresses may now have to conform with the countywide numbering system, to do otherwise would leave isolated pockets of incompatible and nonsequential addresses throughout the county. This would greatly encumber GIS, a system built and maintained on the basis of the logic of its database and the information fed to it.

(f) While it is not impossible to retrieve incompatible address numbers through GIS, such activity severely limits GIS capabilities. But more importantly, it does an injustice to the very citizen who wants to retain his old address by offering to him a lesser service than which is efficiently used by his fellow citizens in the county.

(Ord. of 8-12-1993, § 3)

Sec. 20-34. Administration and application.

The E 911 committee is responsible for the administration of this article including, but not limited to:

- (1) Maintaining system, assigning all numbers for addressable structures;
- (2) Maintaining appropriate address records;
- (3) Approval of change of address schematic when necessary to facilitate house number assignments along existing roads;
- (4) Authorizing legal enforcement action as required by ordinance;
- (5) Establishment of interdepartmental infrastructure to ensure continued operation of the addressing system to meet the spirit and intent of this article;
- (6) Responsible for the appropriate notification of citizens, governments, agencies, and post offices, as required by law;
- (7) The E 911 committee is authorized to correct such clerical or administrative error that may from time to time occur keeping with the overall plan and the intent of this article when strict adherence to these standards cannot be readily met.

(Ord. of 8-12-1993, § 4)

Cross References: Administration, ch. 2.

Sec. 20-35. County address guidelines.



(a) The equal interval system used in the approach to assigning house numbers in the county requires the selection of two intersection base lines, one running in an east-west direction, the other running in a north-south direction. A frontage interval of 10.56 feet is then used to assign a progression of house numbers to properties, working out from these lines. The house number increases as one moves away from these lines in any direction along a continuous road. Odd numbers are assigned to the left side of the road, and even numbers are assigned to the right side of the road facing the direction of increasing numbers.

(b) This system offers several advantages:

- (1) It provides a consistent and coherent house and building numbering system necessary for public safety purposes, to minimize confusion for citizens and visitors to the county, to facilitate orderly and comprehensive mail delivery, and to establish a constant and permanent address for county citizens.
- (2) It provides accurate information concerning both distances and direction of a destination from a central point.
- (3) It ensures that house numbers within specific geographical districts will remain constant and continuous.
- (4) Emergency calls can be assisted with the installation of ANI (automatic number identification) and ALI (automatic location identification) via telephone and EMS - PSAP (public service answering point).

(c) In cases where county and town governmental jurisdiction adjoin, every effort is made to maintain a continuity in numbering across governmental lines. This helps in avoiding the reassignment of house numbers as fringe areas are annexed and ETJ lines are extended.
(Ord. of 8-12-1993, § 5)

Sec. 20-36. County address schematic procedures.

(a) *Road schematic.* To facilitate continued conformity in the county addressing system, the following system shall be used: Number ranges shall begin with one unless the road is to continue the range of another road. Base lines selected are based on two axes. The north-south axis shall be the centerline of SR 1418 (Etheridge Farm Road) from the Halifax County line south to the intersection of NC 33 (NC 33 NW), south along the centerline of NC 33 into Tarboro, following its course along St. Andrew St., E. North Blvd., and Main Street to the intersection with US 258 in Princeville (Mutual Blvd.), then following the centerline of US 258 south to the Pitt County line. The east-west axis shall be the centerline of US 64 Bus. Or US 64 Alt. (E. Thomas St., then N. Raleigh St., then US 64 Alt. west) at the Nash County line, following the centerline of US 64 Alt. west to Tarboro, then following the centerline of US 64 Alt. along Western Blvd. to the intersection of Wilson Street (NC 111/SR 1350), then continuing along the centerline of NC 111 along Western Blvd, US 64 Bypass, and Mutual Blvd. to the intersection with Greenwood Blvd. (NC 111), then following the centerline of NC 111 (Greenwood Blvd./NC 111 north) to the Martin County line. Each addressing base line shall pass through the county from boundary to boundary. The addressing system shall be used in such manner and fashion as to



generate addressable numbers for each 10.56 feet of road.

(b) *Numbering system.* Beginning block numbers are assigned to each road in the county based on their relationship to the base line as follows:

- (1) Numbers shall run in an ascending order from east to west on streets to the west of the north-south axis and shall run in an ascending order from west to east on streets to the east of the north-south base line. Numbers shall run in an ascending order from south to north on streets to the north of the east-west axis and shall run in an ascending order from north to south on streets to the south of the east-west axis.
- (2) All dead-end streets shall begin numbers at the access road.
- (3) Streets with both ends opening from the same direction shall begin numbering on the end closest to the axis.
- (4) Streets which do not run north-south or east-west shall begin numbering at the end closest to the axis.
- (5) Streets which connect to both axes shall begin numbering on the end stemming from the north-south axis.
- (6) Numbers shall remain unassigned in order to accommodate future development and block numbers shall be assigned to undeveloped areas.
- (7) Corner lots having an addressable structure shall normally receive the road name and number of the structure's driveway.
- (8) Existing addresses in corporate areas will remain as is unless there is a conflict in numbering. Every effort will be made to keep existing addresses in town.
- (9) All unnamed roads shall be named by the county.
- (10) Lanes with three or more addressable structures shall be named by the county.
- (11) All streets within mobile home parks shall be named by the county.
- (12) Posting of address numbers shall be per the county address display ordinance.
- (13) The E 911 committee is authorized to approve minor deviations from the basic schematic when actual field conditions indicate a change may be the most beneficial in keeping with the spirit and intent of this article.

(Ord. of 8-12-1993, § 7)

Sec. 20-37. Naming roads and assignment of new addresses.



(a) *Road names.* Names required for new roads and proposed name changes shall be reviewed in accordance with this section. Unique road names are required, and names which refer to landmarks, places, and natural features are preferable. All approved road names shall be added to the official road name list either through administrative action in the case of new developments or action of the board of county commissioners in all other cases, as authorized in this article. U.S. and state highways in the county will not be named, but shall be known by their highway numbers, such as US 301 or NC 111.

(1) *Future road within planned developments.* Road names for proposed new roads shall be submitted to the planning department by the developer for review and approval through the plan review process. Acceptability of proposed names shall be evaluated using both the official road name list and the unofficial list of pending road names maintained by the planning department. Once approved by the planning department, proposed names shall be added to the pending road name list and shall remain on the list until the final plan for the development is approved; the approval of the preliminary plan becomes invalid; or the developer submits and gains approval of substitute road names prior to final plan approval. Road names shall be placed on the official road name list when final plans are approved.

(2) *All other roads.* The planning department shall identify such roads and notify property owners with frontage along that road that a name is needed. Upon receipt of a proposed name from the property owners, the planning department shall review the proposed name within five working days. When an acceptable response is not received within ten days of notification, the planning department shall propose a new name. Proposed names shall be forwarded to the planning board for a recommendation of approval or denial. The recommended name shall then be forwarded to the board of county commissioners for final approval at an advertised public hearing as required by G.S. 153A-239.1. Following approval, the road name shall be added to the official road name list maintained by the planning department.

(b) *Road name changes.*

(1) Road name change requests must include a petition for such action bearing the signatures of not less than 75 percent of the property owners who own frontage on the road. The petitioner shall state the reasons for the proposed name change. Only one owner's signature per individual parcel shall be permitted. Petitions which include signatures of persons other than property owners will be deemed invalid. All road name changes shall be considered by the board of county commissioners at an advertised public hearing as required by G.S. 153A-239.1.

(2) All costs involved in changing a road name including, but not limited to, blades, posts, installation, map changes, and advertising for any required public hearing, shall be borne by those petitioning for the name change. The board of commissioners will consider such petitions once a year.

(3) A charge per sign per intersection along with the currently required administrative fee will be submitted with the petition no later than March 1 for consideration at the regularly scheduled May meeting. Road name changes approved by the board of commissioners become effective 90



days from the date approved by the board.

- (4) There is no fee for requesting a name to be applied to an unnamed public or private road; however, the petitioning procedure shall remain the same. The planning department is authorized to determine the need for additional road name changes and to recommend such changes to the planning board for review and to forward such requests to the board of county commissioners at any time.

(c) *Road name signs.* All roads shall be identified by a county-approved sign showing the official road name; road type; initial address number; and if applicable, the secondary road number. Except as otherwise authorized by the planning department, the county shall be responsible for the purchase, construction, installation, maintenance, and replacement of all road name signs required by this section. In the case of new developments and manufactured home parks, the initial purchase of road name signs shall be the developer's expense. The cost of replacement signs within approved manufactured home parks shall be the responsibility of the park owner. The fee is established on an annual basis by the county commissioners in their annually approved fee schedule.

(Ord. of 8-12-1993, § 8)

Sec. 20-38. Enforcement and standards.

(a) Within 60 days after written notice by the county of the assignment of or change of an address number, the owner of such property shall be required to post the number so assigned in accordance with standards listed as follows:

- (1) All buildings shall clearly display a road address number. The owner and occupant of each building is required to clearly display a road address number on each building so that the location can be identified easily from the road.
- (2) The official address number must be displayed on the building or dwelling which is most clearly visible from the street or road during both day and night.
- (3) Where a building or house is not visible or 100 feet or more from a public street or road on which it fronts, or the lot on which the building is located is landscaped such that numbers cannot be seen from the street or road, the assigned number shall also be posted at the end of the driveway or easement nearest the road which provides access to the structure.
- (4) Numerals indicating the address numbers of dwellings and buildings shall be at least four inches in height and shall be posted so as to be legible from the road.
- (5) Numerals for multiple dwelling units and non-residential buildings shall be at least four inches in height and shall be posted so as to be legible from the road.
- (6) House, building and individual mobile home numbers shall be maintained with a three-foot perimeter of the front entrance, visible and readable from the street. However, if the front entrance is not visible or is more than 100 feet from the public street or road on which it fronts,



or the lot on which the building is located is landscaped so that such numbers cannot be seen from the public street or road, the assigned building number shall also be posted on a marker not less than a four-inch by four-inch post three feet in height at the driveway or access serving such structure. Mobile homes within mobile home parks shall have permanent site numbers of not less than a four-inch by four-inch post three feet in height at each mobile home site. The address number shall be displayed upon such post in a uniform manner throughout the park. Numbers displayed on mobile homes within a park are not sufficient and not an acceptable substitute for such mobile home site markers.

- (7) Manufactured home parks shall erect a sign at the entrance to the park displaying the name of the park.
- (8) Address numbers shall be in a contrasting color to the color scheme of the house or building or mobile home so that it is clearly visible and shall be maintained in a clearly visible manner. Reflective numbers are encouraged.
- (9) Following the posting of the assigned number as required, the owner or occupant shall maintain such house or building number at all times in compliance with the standards of this section. Address numbers shall not be obstructed from view by shrubs or vegetation as viewed from the public road.

(b) The unauthorized damage to removal or possession of a road sign shall constitute a violation of this section and shall constitute a misdemeanor and the offender shall be subject to one or more of the penalties and remedies provided for in subsection (c) of this section.

(c) If the owner or occupant does not comply voluntarily with this article within 60 days of delivery of a warning notice by certified mail or by hand delivery of notice to the owner of the building in violation, the county attorney is authorized to begin legal enforcement action pursuant to G.S. 153A-123. The violation of the sentence authorized by G.S. 14-4. This article may also be enforced by appropriate equitable remedy issued by a court of competent jurisdiction including, but not limited to, issuance of mandatory or prohibitory injunctions and orders of abatement. Each day of continuing violation of the terms of this article shall constitute a separate and distinct offense.

(Ord. of 8-12-1993, § 9; Ord. of 9-5-2006, § 1)



Chapter 21

RESERVED



Chapter 22

SOLID WASTE MANAGEMENT*

* **Cross References:** Buildings and building regulations, ch. 6; environment, ch. 10; utilities, ch. 26.

State Law References: Solid waste management generally, G.S. 130A-290 et seq.; authority to provide for the removal and disposal of garbage and trash, G.S. 153A-132.1; regulation of solid wastes, G.S. 153-136.

Article I. In General

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Sec. 22-40. Refuse or solid waste collection, transportation and vehicle requirements.

Sec. 22-41. Enforcement.

ARTICLE I.

IN GENERAL

Sec. 22-1. Authority and responsibility.

(a) *Rules and regulations.* The county has adopted the following rules and regulations for solid waste, recycling, collection and disposal for the general health and welfare of the citizens of the county under the authority granted under G.S. 153A-136 and shall govern the management, storage, collection, transportation, disposal and recycling of solid waste throughout the county except that these regulations shall not apply to the corporate municipalities of the City of Rocky Mount, Towns of Tarboro, Pinetops, Macclesfield and Princeville.

(b) *Solid waste receptacles.* Solid waste receptacles are maintained throughout the county for the convenience of county residents. Solid waste may be deposited in the receptacles, for eventual disposal at the landfill, only by the residents who reside outside of the corporate area of the municipalities of Rocky Mount, Tarboro, Pinetops, Macclesfield and Princeville.

(c) *Enforcement.*

(1) *Criminal penalty.* Any person violating this section shall be guilty of a misdemeanor punishable



in accordance with section 1-7. Each violation and each day's violation shall be treated as a separate offense.

- (2) *Civil penalty.* Any person who is found in violation of this section shall be subject to a civil penalty in accordance with section 1-7. Each violation and each day's violation shall be treated as a separate offense.
- (3) *Other remedies.* This section may be enforced by equitable remedies, and any unlawful condition existing in violation of this section may be subject to an injunction or order of abatement.

Secs. 22-2--22-30. Reserved.

ARTICLE II.

COLLECTION AND DISPOSAL

Sec. 22-31. Purpose and statutory authority of article.

The purpose of this article is to regulate the storage, collection, transportation, use, disposal and other disposition of solid wastes in the county. This article is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1, 153A-136, 153A-274--153A-278, and 153A-291--153A-293, and 130A-309.09, 130A-309.09A, 130A-309.09B, and 130A-309.09D. Unless otherwise indicated, this article pertains to all solid waste activity in the unincorporated county.

Sec. 22-32. 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:

Bulky waste means large items of solid waste such as household appliances, furniture, automobiles, large auto parts, trees, branches, leaves, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.

Clean wood waste means clean wood waste, from construction or demolition activity, that is not treated and free of paint.

Collection means the act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility or disposal facility.

Commercial solid waste means solid wastes generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial waste.

Construction and demolition waste means solid waste resulting solely from construction, remodeling, repair or demolition operations on buildings or other structures, but does not include inert debris, land clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar



nonhazardous material.

Department means the state department of environment, health and natural resources (DEHNR).

Garbage means all putrescible solid waste, including animal offal and carcasses, and recognizable industrial byproducts, but excluding sewage and human wastes.

Hazardous wastes means solid wastes, or a combination of solid wastes, that, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Industrial solid waste means solid wastes generated by industrial processes and manufacturing.

Institutional solid waste means solid wastes generated by educational, health care, correctional and other institutional facilities.

Land clearing debris means solid waste that is generated solely from land clearing activities.

Landfill means a disposal facility or part of a disposal facility where waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste longterm storage facility, or a surface storage facility.

Medical waste means any solid waste that is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste as defined in 40 CFR 261.4(b)(1), or those substances excluded from the definition of the term "solid waste" in this article. Sharps are considered medical waste if they come from a health care facility.

Municipal solid waste means solid waste resulting from the operation of residential, commercial, industrial, governmental or institutional establishments that would normally be collected, processed and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge or solid waste from mining or agriculture.

Pathological waste means human tissues, organs and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

Processing means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage or recycling;



safe for disposal; or reduced in volume or concentration.

Putrescible means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and animal carcasses.

Radioactive waste means waste containing any material, whether solid, liquid or gas, that emits ionizing radiation spontaneously.

Recycling means the process by which solid waste or recovered materials are collected, separated or processed, and reused or returned to use in the form of raw materials or products.

Refuse means solid wastes, excluding garbage and ashes, collected from residences, commercial establishments and institutions.

Regulated medical waste means blood and body fluids in individual containers in volumes greater than 20 ml and microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the department.

Resource recovery means the process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.

Salvageable materials means any materials deposited as refuse but retaining enough of original qualities to be considered useful.

Sanitary landfill means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to G.S. 130A-290 et seq.

Scavenging means the rummaging through or removal of waste or solid waste from bulk containers on the landfill or convenience sites.

Scrap tire means a tire that is no longer suitable for its original, intended purpose because of wear, damage or defect.

Septage means solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin that is removed from a septic tank system.

Sharps means needles, syringes and scalpel blades.

Sludge means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

Solid waste means any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, domestic sewage and sludges generated by their treatment in sanitary sewage collection, treatment and disposal systems, and other material that is either



discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- (1) Fecal waste from fowls and animals other than humans.
- (2) Solid or dissolved material in:
 - a. Domestic sewage and sludges generated by their treatment in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;
 - b. Irrigation return flows; and
 - c. Wastewater discharges and the sludges incidental to and generated by the treatment that are point sources subject to permits granted under section 402 of the Clean Water Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the environmental management commission; however, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for purposes of this definition.
- (3) Oils and other liquid hydrocarbons controlled under G.S. 143-215.1 et seq.; however, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition.
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011).
- (5) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46--74-68, and regulated by the state mining commission. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this definition.

Solid waste collector means any person who collects, transports or disposes of solid wastes for compensation, other than one who removes refuse or solid waste from his own premises.

Solid waste disposal site means a location at which solid wastes are disposed of by any approved method.

Solid waste receptacle means a container used for the temporary storage of solid waste while awaiting collection.

Source separation means setting aside recyclable materials at their point of generation by the generator.

Tire means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).



Transfer station means a site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.

Used oil means any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage or handling, has become unsuitable for its original purpose.

White goods means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

Yard trash means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

Cross References: Definitions generally, § 1-2.

Sec. 22-33. General conditions.

All solid waste management in the county shall be in accordance and in compliance with solid waste management rules as set forth by the department, solid waste management division, solid waste section, as amended through January 9, 1992. Definitions are taken from the solid waste management rules and the U.S. Environmental Protection Agency's "Guidelines for the Storage and Collection of Residential, Commercial and Institutional Solid Waste, 40 CFR 243.100, and "Source Separation for Materials Recovery Guidelines," 40 CFR 246.101.

Sec. 22-34. Storage and disposal.

(a) No owner, occupant, tenant or lessee of any property may deposit, store or permit to accumulate any solid wastes upon his property outside of the dwelling unit, that is not stored or disposed of in a manner that exemplifies good sanitation practices.

(b) The owner, occupant, tenant or lessee of any property shall remove or cause to be removed all solid wastes from his property before harborage of such waste creates a health hazard.

(c) Garbage shall be stored only in a container that is durable and easily cleaned. Each container shall be kept clean so that no odor or other nuisance condition exists.

(d) Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes but is not limited to lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods.

(e) No owner, occupant, tenant or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door (G.S. 14-318.1).

(f) Solid waste shall be disposed of only in a facility permitted by the state.



(g) In addition to the methods listed in subsection (c) of this section, refuse may be disposed of in solid waste receptacles provided by the county.

(h) No person may discard, impose, leave or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.

(i) Construction wastes may be disposed of at disposal sites approved and permitted by the department.

(j) Regulated medical, hazardous and radioactive waste must be disposed of according to written procedures approved by the department.

(k) Any person collecting and transporting solid wastes generated on such person's property for disposal at an approved disposal site shall comply with section 22-39(f) concerning vehicles and containers.

(l) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

Sec. 22-35. Solid waste convenience center.

(a) Solid waste receptacles are maintained at selected centers throughout the county for the convenience of county residents. Use by out-of-county residents is prohibited. Solid waste may be deposited in the solid waste receptacles only in accordance with the provisions of this article.

(b) The following wastes may not be deposited in solid waste receptacles or at solid waste convenience centers:

- (1) Asbestos.
- (2) Burning or smoldering materials, or any other materials that would create a fire hazard.
- (3) Commercial waste.
- (4) Construction waste and demolition waste.
- (5) Hazardous waste.
- (6) Industrial waste.
- (7) Institutional waste.
- (8) Liquid waste.
- (9) Radioactive waste.



- (10) Regulated medical waste.
- (11) Sludges.
- (12) Barrels without both ends cut out.
- (13) Sharps not properly contained.
- (14) Animal parts or carcasses.
- (15) Land clearing debris.

(c) The following wastes may be accepted at solid waste convenience centers when there is a specific area designated for the collection of such items:

- (1) Lead-acid batteries.
- (2) Used oil with no other substances mixed in.
- (3) White goods.
- (4) Yard waste.
- (5) Furniture.
- (6) Tires.

(d) All solid waste intended for disposal in a solid waste receptacle shall be deposited inside the receptacle. No solid waste may be left at the solid waste convenience center outside the receptacle unless the site is staffed and the solid waste is considered by the attendant to be salvageable. It then may be placed in the area designated for salvageable materials.

(e) No person may remove any item from a solid waste container, climb on or into a container, or damage any container.

(f) No person shall vandalize any property associated with solid waste convenience centers.

(g) Solid waste collectors shall not use solid waste receptacles at county solid waste convenience centers.

(h) No person may trespass on property used for consolidated solid waste convenience centers during nonoperational hours.

(i) No person shall loiter in or around convenience centers during operational hours.



(j) Convenience sites shall operate a swap shop that allows residents to drop off items that they do not want that may be useful to others. Scavenging or rummaging through waste or solid waste from bulk containers is prohibited.
(Ord. of 8-5-2002, § 1)

Sec. 22-36. Source separation and recycling.

(a) Each person who owns, leases or manages a residence, residential unit, or place of business, industry, commerce or other place providing goods or services, or institution, church or school is encouraged to remove recyclable materials from the solid waste generated as required in subsection (b) of this section and make them available for recycling as required in subsection (c) of this section. Nothing in this section is intended to prevent any person from donating or selling recyclable materials to any other person.

(b) All recyclable material should be separated from other solid waste and made available for recycling. Recyclable material should not be mixed with or disposed of with other solid waste. Recyclable material should consist of the following items depending on availability of markets:

- (1) *Glass.* All brown, green and clear glass should be rinsed.
- (2) *Cans.* Except for aluminum cans, all other metal cans should be rinsed. All cans, including aluminum, should be flattened.
- (3) *Plastic.* All plastic containers must be rinsed and flattened with caps removed. Other plastic may be accepted as directed by the designated body in charge of recycling.
- (4) *Corrugated cardboard and brown paper bags.* All boxes and bags should be clean and dry. Boxes should be flattened.
- (5) *Newspapers.* All newspapers should be clean and dry.
- (6) *Motor oil.* Motor oil must be in closed containers. Oil must not be mixed with other substances.

(c) All recyclable materials brought to the recycling dropoff sites shall be placed in recycling collection containers provided by the designated body in charge of recycling.

(d) Ownership of recyclable materials shall be determined as follows:

- (1) After recyclable material has been placed in a designated container at a convenience center, the recyclable material shall become the property of the designated body in charge of recycling.
- (2) No person, other than an employee or representative of the designated body in charge of recycling, may remove recyclable material from a recycling collection center.

Sec. 22-37. Residential back yard composting.



Backyard composting is considered a preferred means of waste reduction in the residential community. Residents are urged to separate compostable materials from their waste streams for composting.

Sec. 22-38. Flow control.

(a) The landfill shall be designated to accept solid waste generated exclusively by residents, businesses and other institutions located in the county.

(b) No person, except licensed private collectors and county or municipal collectors, shall collect or remove any solid waste within the county for disposal.

Sec. 22-39. Licensing of solid waste collectors.

(a) No person shall engage in business as a solid waste collector except under a license issued by the county pursuant to this section.

(b) Applications for licenses to engage in the business of solid waste collector shall be filed with the solid waste department on forms furnished by the county. The applicant shall furnish the following information:

- (1) The name and address of the applicant and whether a sole proprietorship, corporation or partnership, with disclosure of the ownership interests.
- (2) A list of the equipment possessed, available or to be obtained by the applicant, including motor vehicle license tag numbers.
- (3) The number of employees the applicant expects to use in the business.
- (4) The experience of the applicant in solid waste collection.
- (5) The planned routes and areas of the county the applicant expects to serve.
- (6) Liability insurance coverage.
- (7) The name and location of the facility where collected waste is to be disposed of.
- (8) Proof of availability of recycling service with recycling for at least three types of items.

(c) Before issuing a license pursuant to this section, the solid waste department shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.

(d) The solid waste department may issue the applicant a license only when it is found that the applicant's facilities, equipment and proposed operating methods are in compliance with this article and the applicable rules of the department and that the applicant will perform waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person in such a manner that the licensee does not cause the person to be in violation of this article. If the solid waste department denies



an applicant a license, the applicant may request a hearing before the public works director. The solid waste director shall keep summary minutes of the hearing and within one week after the hearing shall give the applicant written notice of the decision either granting the license or affirming the denial of the license. The applicant may appeal the solid waste director's decision to the board of commissioners by giving written notice of appeal to the county manager within five working days of receipt of the public works director's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the public works department to issue the license. A license shall be valid for a period of one year from the date of issuance.

(e) A licensee shall submit an annual report to the solid waste department containing the following information:

- (1) The total number of customers.
- (2) The number of customers added or deleted since the last report.
- (3) Changes in routes.
- (4) New and replacement equipment.
- (5) The total amount of solid waste and recyclables collected.

(f) Vehicles and containers used for the collection and transportation of solid wastes shall be covered, leakproof, durable and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the solid waste department. Vehicles and containers used for the collection and transportation of solid wastes shall be loaded and moved in such a manner that the contents will not fall, leak or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

(g) When the solid waste department finds that a licensee has violated this article or the conditions of the license, the licensee shall receive written notice of the violation and be informed that if another violation occurs within 30 working days, or in the case of a continuing violation if it is not corrected within ten working days, the license will be revoked. If another violation occurs within the 30-working-day period, or if the continuing violation is not corrected within ten working days, the solid waste department shall give the licensee written notice that the license is revoked. Upon receipt of the revocation, the licensee shall stop collecting, transporting or disposing of solid wastes. The solid waste department may reinstate a revoked license after the revocation has been in effect for 30 working days if the solid waste department finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the board of commissioners by giving written notice of the appeal to the solid waste department within ten working days of receiving notice of revocation from the solid waste department. After a hearing on the appeal, the board shall either affirm the revocation or direct the solid waste department to reinstate the license.

(h) No license issued pursuant to this article shall be assignable.



Sec. 22-40. Refuse or solid waste collection, transportation and vehicle requirements.

(a) *Solid waste or refuse collection.* The owner, occupant, tenant, or lessee of any premises upon which garbage is stored shall remove, or cause to be removed all garbage from said premises at least once a week. The work shall be done in a clean orderly manner and any refuse that is spilled shall be cleaned up, and the premises left in a clean and sanitary condition.

(b) *Solid waste or refuse transportation.* No solid waste collector shall transport solid waste in a conveyance that has not been approved by the solid waste director. All vehicles, except those owned by individuals hauling their own solid waste, shall display an identifying tag or decal in order to gain entrance to the county waste handling facility. These vehicles must be identified by a special use permit decal issued by the health department. The driver of all vehicles used to collect, transport, and deposit waste at the county waste handling facility may be required to supply information giving the name and address of the owner of the vehicle, the source and the type of waste to be deposited and the weight and size of the vehicle. Identification may be required of drivers. Such identification may be a current driver's license or other acceptable identification.

(c) *Minimum vehicle requirements.* All vehicles used for the collection of solid waste or refuse collection shall be leak proof, and covered with a canvas or other durable material to prevent leakage or spillage of the refuse, unless it is constructed in such a manner to assure there is no spillage of wastes. Vehicles in which refuse or solid waste is hauled shall be cleaned daily. Vehicles which are not self unloading will be subject to control by the solid waste supervisor so as to minimize vehicle congestion and provide easy access for self-unloading vehicles.

(d) *Vehicle covers or ties.* All vehicles, both private and commercial, used for the transportation of solid waste shall provide that all solid waste or other items to be disposed of be covered or loads secured by some effective means to prevent the spillage or loss of waste while being transported. "Effective means", as used in this subsection, shall mean durable, heavy plastic or canvas tied down or secured to cover all of the load. Loads consisting of building rubbish, limbs and bulk items shall be loaded and secured with rope or tie downs to assure spillage does not occur. In the event the load is not completely covered, the solid waste supervisor or his representative shall be the final authority as to whether the load is properly secured.

(e) *Solid waste or refuse collector permits.* No person shall collect and transport or dispose of solid waste without a written permit from the solid waste department. This subsection shall not apply to any person disposing of solid waste from his own residence or property. The solid waste department shall issue a permit only when, upon inspection, it finds that the facilities, equipment and proposed operating methods of the applicant are in compliance with the requirements of this section.

Sec. 22-41. Enforcement.

(a) *Criminal penalty.* Any person violating this article shall be guilty of a misdemeanor punishable in accordance with section 1-7. Each day's continuing violation shall be a separate and distinct offense.

(b) *Civil penalty.* Any person who is found in violation of this article shall be subject to a civil



penalty as provided in G.S. 153A-123. Each day's violation shall be treated as a separate offense.

(c) *Remedies.* This article may be enforced by equitable remedies, and any unlawful condition existing or in violation of this article may be enforced by injunction and order of abatement in accordance with G.S. 153A-123.



Chapter 23

RESERVED



Chapter 24

TELECOMMUNICATIONS*

* **Cross References:** Utilities, ch. 26.

State Law References: Authority to grant by ordinance franchises for the operation of cable television, G.S. 153A-137; authority to impose annual financial taxes on cable television companies, G.S. 153A-154.

Sec. 24-1. Short title.

Sec. 24-2. Definitions.

Sec. 24-3. Grant of authority nonexclusive.

Sec. 24-4. Compliance with the laws, regulations and ordinances of county.

Sec. 24-5. Company liability, insurance and indemnification.

Sec. 24-6. Conditions on use of roads and system construction.

Sec. 24-7. Number of channels.

Sec. 24-8. Public service and educational service.

Sec. 24-9. System design provisions.

Sec. 24-10. Construction.

Sec. 24-11. Franchise area and extension of service.

Sec. 24-12. Service standards.

Sec. 24-13. Company rules.

Sec. 24-14. Additional rules; control of rates and payments.

Sec. 24-15. Fee required in lieu of occupational license fees and service charges; company subject to ad valorem taxes.

Sec. 24-16. Rates to customers.

Sec. 24-17. Franchise fee.

Sec. 24-18. Duration of franchise.

Sec. 24-19. Assignment for financing.

Sec. 24-20. Renegotiation.

Sec. 24-21. Recourse against county.

Sec. 24-22. Separability of chapter provisions.

Sec. 24-23. Necessity of franchise.

Sec. 24-1. Short title.

This chapter shall be known and may be cited as the "Edgecombe County Community Antenna Television Ordinance" or "Edgecombe County CATV Ordinance."
(Ord. of 2-7-1983, § 1)

Sec. 24-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissioners means the board of commissioners of the county.

Company means the person to whom a franchise is granted pursuant to this chapter.

County means Edgecombe County, North Carolina.



FCC means the Federal Communications Commission or any federal regulatory agency or agencies having regulatory jurisdiction over cable television.

Franchise means authorization granted pursuant to this chapter to construct, operate, and maintain a cable television system in all or a part of the county.

Gross subscriber revenue means total revenue and receipts received by the company from monthly service charges within the limits of the county, exclusive of incorporated areas, before any expenses or deductions whatsoever are made.

Homes per mile means the total number of residential units located on the property directly adjacent to two consecutive miles of street or other public rights-of-way, as measured along established streets or right-of-way contiguous with the present system of streets and rights-of-way. The total residential units thus obtained shall be divided by two to obtain the homes per mile. Example: eight apartments in one building count as eight homes.

Person means any person, firm, partnership, corporation, company or organization of any kind.

System means the lines, fixtures, equipment, attachments, and all appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized in this chapter.

(Ord. of 2-7-1983, § 2)

Cross References: Definitions generally, § 1-2.

Sec. 24-3. Grant of authority nonexclusive.

(a) The commissioners are authorized to grant any qualified applicant a nonexclusive right and privilege to construct, erect, operate and maintain in the county or any part thereof wires, poles, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation of a community antenna television system for the reception and distribution of television signals and energy, frequency modulated radio signals, and noncommercial visual and aural signals which are not otherwise prohibited. The right granted in any franchise shall be subject to the terms of this chapter (as may be amended from time to time).

(b) The company shall have the right to enter into arrangements for the attachment onto and the use of facilities owned and operated by public utilities operating within the county whereby the company shall strictly comply with the terms, provisions and restrictions of such agreements, and copies of all agreements made with public utilities operating in the county shall be placed on file in the office of the county manager immediately upon their execution.

(Ord. of 2-7-1983, § 3)

Sec. 24-4. Compliance with the laws, regulations and ordinances of county.

The company shall at all times during the terms of this chapter and a franchise thereby granted, be subject to all lawful exercise of the power of the county and to such other reasonable regulation as the county



shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with the National Electrical Code as from time to time amended and revised, and in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the FCC, the county, the state, including the state building code, and the United States government. Any modification of FCC rules which affect a franchise granted pursuant to this chapter shall be incorporated into the franchise within one year of adoption by the FCC or at the time of franchise renewal, whichever occurs first, or at such earlier time as may be required by law or FCC rules or regulations.
(Ord. of 2-7-1983, § 4)

Sec. 24-5. Company liability, insurance and indemnification.

- (a) *Nonenforcement; no estoppel.* The franchisee shall not be relieved of its obligation to comply promptly with any of the provisions of the franchise by any failure of the county to enforce prompt compliance.
- (b) *Liability and indemnification of the county.* The franchisee shall indemnify and hold harmless the county at all times during the term of the franchise granted hereby and specifically agrees that it will pay all damages and penalties which the county may legally be required to pay as a result of granting the franchise. Such damages and penalties shall include, but not be limited to, damages arising out of copyright infringements, and other damages arising out of the installation, operation or maintenance of the CATV system authorized in this chapter, whether or not any act or omission complained of its authorized, allowed or prohibited by the franchisee. In case a suit shall be filed against the county either independently or jointly with the franchisee to recover for any claim or damages, the franchisee, upon notice of it by the county, shall defend the county against the action and, in the event of a final judgment being obtained against the county, either independently or jointly with the franchisee solely by reason of the acts of the franchise, the franchisee will pay such judgment and all costs including attorneys fees and hold the county harmless therefrom.
- (c) *Insurance.* The franchisee shall be required to maintain insurance in such forms and in such companies as shall be satisfactory to the county with the county named as an additional insured to protect the county and franchisee from and against any and all claims, injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any aspect of the system. The amount of such insurance shall not be less than that currently required, which amount shall be set from time to time by the county commissioners. The county may require the insurance amounts to be changed from time to time during the term of the franchise. Worker's compensation insurance shall also be provided as required by the laws of the state, as amended. All such insurance coverage shall provide a 30-day notice to the county in the event of material alteration or cancellation of any coverage afforded in such policies prior to the date such material alteration or cancellation shall become effective. A certificate of coverage for all policies required under this section shall be furnished to and filed with the county, prior to the commencement of operations or expirations of prior policies, as the case may be.
- (d) *Nonwaiver.* Neither the provisions of this section, nor any bonds accepted by the county pursuant hereto, nor any damages recovered by the county under this chapter, shall be construed to excuse unfaithful performance by the franchisee or limit the liability of the franchisee under this chapter or the franchise for damages, either to the full amount of the bond, or otherwise.
- (e) *Faithful performance bond.* A corporate surety bond issued by a responsible insurance company



licensed to do business in the state and approved by the county in the currently required amount, renewable annually, and conditioned upon the faithful performance of the grantee of all the provisions of the franchise agreement and this chapter and upon the further condition that if the grantee shall fail to comply with any one or more of the provisions of the franchise agreement or this chapter, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the county as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. Such condition shall be a continuing obligation for the duration of the franchise and any renewal thereof and thereafter until the grantee has liquidated all of its obligations arising out of the acceptance of this franchise or renewal by the grantee or from the exercise of any privileges or right herein granted or the performance of any covenants or obligations imposed hereby. The bond shall provide that at least 30 days' prior written notice of intention not to renew, cancellation or material change, shall be given to the county by filing the same with the county commissioners.

(f) *Letter of credit.* A letter of credit shall be issued in a form approved by the county commissioners to the county in the currently required amount by a lending institution acceptable to the county and payable upon demand by the county. This letter of credit shall be used to protect the county from the same contingencies as enumerated in subsection (e) of this section for a corporate surety bond.

(g) *Waiver of requirements of subsections (e) and (f).* The board of commissioners may waive the requirements of subsections (e) and (f) of this section when it reasonably appears that a television cable company applying for a franchise will serve less than 100 subscribers.
(Ord. of 2-7-1983, § 5)

Sec. 24-6. Conditions on use of roads and system construction.

(a) All transmission and distribution structures, lines, and equipment erected by the company in the county shall comply with all rules and regulations of the state department of transportation or any other federal, state, or county agency regulating the use of roads in the county.

(b) The county shall not assume any responsibility for the securing of any rights-of-way or easements, nor shall the county be responsible for securing any permits or agreements with other persons or utilities.
(Ord. of 2-7-1983, § 6)

Sec. 24-7. Number of channels.

(a) The company shall initially install equipment capable of delivering a minimum of 35 television channels to all subscribers, and the company shall immediately place into operation not less than 11 channels available to the subscribers to this system in the county.

(b) The channels transmitted and services offered shall at all times be at least those channels and services offered to the Town of Tarboro, North Carolina; provided, however, that a company not serving a municipality shall not be required to comply with the terms of this subsection.
(Ord. of 2-7-1983, § 7)



Sec. 24-8. Public service and educational service.

The company shall provide antenna service without monthly service charge to all county municipal offices and schools, and to all fire, rescue and ambulance stations that are partially funded by the county, provided that the lines of the system pass such facilities in the normal course of business.
(Ord. of 2-7-1983, § 8)

Sec. 24-9. System design provisions.

(a) *Emergency override.* The cable system shall include as "emergency alert" capability which will permit the chair or his designee to access programming in the case of public emergencies. The franchisee shall designate a channel which will be used for emergency broadcasts.

(b) *System standards.* The franchisee shall install and maintain a cable system which shall be in accordance with the highest and best accepted standards of the industry to the end that subscribers shall receive the best possible service. In addition the franchisee shall comply with all requirements of all duly constituted regulatory agencies having jurisdiction over cable television or the operator of the cable system.
(Ord. of 2-7-1983, § 9)

Sec. 24-10. Construction.

(a) *Schedule.* The franchisee shall be diligent in attaining any required permits from the FCC. The franchisee shall provide the county with copies of all filings with the FCC or any other agency or person in connection with such application and shall complete formal submission of all documents required by the FCC for its full consideration of the application no later than four months after the effective date of the franchise agreement. Failure of the franchisee to commence construction of the system promptly or to prosecute it diligently shall be grounds for termination of the franchise.

(b) *Approval of proposed construction.* A franchisee shall first obtain the approval of the county before commencing construction on the streets, alleys, public grounds or places of the county. Applications for approval of construction shall be in writing to the county. A franchisee shall give the county written notice of proposed construction at least 30 days prior to such construction so as to coordinate all work between the county and the franchisee.
(Ord. of 2-7-1983, § 10)

Sec. 24-11. Franchise area and extension of service.

(a) *Franchise territory.* The franchisee may be for all or a portion of the present boundaries of the county, excluding the corporate limits of all municipalities and for any area henceforth added thereto during the terms of this franchise.

(b) *Annexation by municipalities.* Upon the annexation of any territory to a city, the right and franchise hereby granted shall be cancelled to the territory annexed and all facilities owned, maintained or operated by the franchisee located within, under or over streets of the territory so annexed shall thereafter not be



subject to all terms hereof.

(c) *Service.* The franchise agrees to make available CATV service to all areas of the county covered by the franchise with a minimum residential density of 35 per mile and the length of the drop from the cable at the road to the residence is 300 feet or less. The franchisee may charge its actual labor and material costs as an installation fee if the drop is longer than 300 feet. The franchisee shall accomplish significant construction within one year after the date hereof and shall thereafter equitably and reasonably extend energized trunk cables into a substantial percentage of its franchise area each year; subject percentage to be not less than:

- (1) Fifty percent at the end of two years;
- (2) Seventy percent at the end of three years;
- (3) Eighty percent at the end of four years;
- (4) Ninety percent at the end of five years.

(d) *Service extension.* The franchisee agrees to extend cable to one or more customers that does not meet the density criteria if the customers share equally with the company the cost of the extension. As additional customers hook up after the cable is extended, refunds to the original contributing customers shall be made by the franchisee.

(Ord. of 2-7-1983, § 11)

Sec. 24-12. Service standards.

(a) The company shall maintain and operate the system and render efficient service so that there will be no interference with television reception, radio reception, telephone communications or other installations which are now or may hereafter be installed and in use by the county or any person in the county.

(b) The community antenna television system's:

(1) Distribution system shall conform to the requirements of the Federal Communications Commission.

(2) Antenna, receiving and distribution equipment shall be installed and maintained so as to provide pictures on subscriber receivers throughout the system essentially of the same quality as those received at the antenna site.

(c) The company shall be responsible for installation and maintenance of the service wiring from the cable entry point to the TV set in the subscribers' homes.

(d) The company shall investigate and resolve all subscriber complaints regarding the quality of service, equipment malfunctions and similar matters expeditiously and in accordance with the following procedure:



- (1) The company shall, during normal working hours, having qualified personnel available to investigate and resolve subscriber complaints.
- (2) Upon notification of a service complaint, the company shall dispatch a qualified employee to investigate the complaint and adjust, repair or replace company equipment as necessary to resolve the complaint. The company shall not be responsible for malfunctions in any subscribers radio or television receiver.
- (3) Complaints shall be investigated and resolved within 24 hours of notification and the company shall maintain a service log in which entries of each complaint, the date received, the nature of the complaint and the date and means by which it was resolved shall be kept.
- (4) The company shall maintain a business office or agent in the county and maintain a listed telephone for performing services and meeting all requirements provided in this article.

(Ord. of 2-7-1983, § 12)

Sec. 24-13. Company rules.

The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonable and necessary to enable the company to exercise its rights and to perform its obligations under this chapter and to ensure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof and shall be filed with the county and be approved by the county.

(Ord. of 2-7-1983, § 13)

Sec. 24-14. Additional rules; control of rates and payments.

The right is hereby reserved to the county to adopt, in addition to the provisions contained in this chapter and in existing applicable ordinances, such additional regulations and ordinances as the county may find reasonably necessary, including provisions governing installation fees and monthly rental charges.

(Ord. of 2-7-1983, § 14)

Sec. 24-15. Fee required in lieu of occupational license fees and service charges; company subject to ad valorem taxes.

The company shall pay annually a franchise fee as determined in section 24-17 in lieu of any occupational licenses, fees and service charges as shall be appropriate to this general classification of business as set forth by law and shall be subject to payment of ad valorem taxes.

(Ord. of 2-7-1983, § 15)

Sec. 24-16. Rates to customers.

(a) The grantee may initially charge subscribers and users of the CATV system for services up to the amounts specified in its schedule of rates and charges as proposed in its franchise application and approved by the county commissioners. Such maximum rates shall be in effect for a minimum period of two years from the



effective date of the franchise or until grantee has completed all construction as proposed in its franchise application for the first and second years of construction.

(b) Thereafter, the company may make such charges for its services as are reasonable provided such charges have the prior approval of the board of commissioners of the county which approval shall be given only after an appropriate public hearing has been held affording due process to all interested parties. The company shall not charge in excess of the amount so approved and shall not require a customer to continue to receive or pay for the services of the company any longer than the customer may desire.
(Ord. of 2-7-1983, § 16)

Sec. 24-17. Franchise fee.

(a) The company shall pay to the county a franchise fee of three percent of the gross subscriber revenue per year. All payments as required by the company to the county shall be made semiannually and shall be due within 60 days after the close of the preceding six-month period.

(b) The currently required application fee shall be made by each franchise applicant, which fee shall be in the form of cash, check, or money order, to defer the cost of studying, investigating and otherwise processing such application and which shall be in consideration thereof and not refundable or returnable in whole or in part.

(c) Applications for the granting of a franchise shall be on forms prescribed by the county manager.
(Ord. of 2-7-1983, § 17)

Sec. 24-18. Duration of franchise.

(a) Any initial franchise granted pursuant to this chapter may be granted for a period not to exceed ten years, and the county shall have no obligation to extend or renew the term of a franchise granted.

(b) The county may terminate any franchise agreement and all rights under this chapter at any time upon the determination by the commissioners that the company has:

- (1) Breached any terms or conditions of this chapter or the franchise agreement whether by act or omission.
- (2) Made an assignment for the benefit of creditors, been adjudicated bankrupt or insolvent, or filed a petition under the bankruptcy laws of the United States.
- (3) Failed to provide services to the citizens of the county under the terms of the franchise granted.

(c) Such a determination shall be made after the county has given the company 15 days' written notice that it is considering the same; and the county may call a public hearing on the question of termination of the franchise and call witnesses and present evidence at the public hearing. At such public hearing the company shall be entitled to call witnesses, present evidence and cross examine witnesses called by the county. The cost of any litigation incurred by the county to enforce this chapter or the franchise granted pursuant thereto or in



relation to any cancellation or termination of the franchise shall be reimbursed to the county by the company. Such costs shall include, but not be limited to, court costs and reasonable attorney fees.
(Ord. of 2-7-1983, § 19)

Sec. 24-19. Assignment for financing.

The company may assign or hypothecate its interest in this franchise to a financial institution for the purpose of obtaining financing; provided, however, that funds obtained from such financing shall be utilized in the construction and operation of the cable television system.
(Ord. of 2-7-1983, § 20)

Sec. 24-20. Renegotiation.

The field of cable communications is a relatively new and rapidly changing field which shall no doubt see many regulatory, technical, financial, marketing and legal changes during the term of a franchise period. Therefore, in order to provide for a maximum degree of flexibility in a franchise and to help achieve a continued advanced and modern system for the county, the company shall be subject to the following renegotiation provisions:

- (1) The county and the company shall hold renegotiation sessions at the request of either within 30 days of such request, provided that there shall be no obligation to hold such a session more frequently than every two years.
- (2) The following topics shall be discussed at such renegotiation sessions: Service rate structure, the state of the arts, free or discounted services, application of new technologies, system performances, services provided, programming offered, customer complaints, privacy in human rights, judicial and FCC rulings, and other topics as may be deemed appropriate.

(Ord. of 2-7-1983, § 21)

Sec. 24-21. Recourse against county.

The franchisee shall have no recourse whatsoever against the county or its officers, board, commission, agents or employees for any loss, cost, expense or damages arising out of any provision or requirement of this franchise or because of its enforcement.
(Ord. of 2-7-1983, § 22)

Sec. 24-22. Separability of chapter provisions.

If any section or part of this chapter or the franchise, shall be held invalid or in conflict with mandatory FCC regulations, such part shall be deemed to be of no effect and such invalidity shall not affect the remaining sections or portions of this chapter.
(Ord. of 2-7-1983, § 23)

Sec. 24-23. Necessity of franchise.



It shall be unlawful for any person to own, operate, or construct a cable television system in the county except pursuant to a franchise agreement granting the right to do so between the county and the company, which agreement shall be subject to the terms of this chapter, as amended from time to time.
(Ord. of 2-7-1983, § 24)



Chapter 25

RESERVED



Chapter 26

UTILITIES*

* **Cross References:** Any well ordinance saved from repeal, § 1-10(17); any sewer use ordinance saved from repeal, § 1-10(18); any ordinance setting fees, charges or rates for any county service saved from repeal, § 1-10(19); administration, ch. 2; buildings and building regulations, ch. 6; environment, ch. 10; roads, ch. 20; solid waste management, ch. 22; telecommunications, ch. 24.

State Law References: Authority to operate public enterprises, G.S. 153A-275; special provisions for water and sewer services, G.S. 153A-283 et seq.

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ARTICLE I.

IN GENERAL

Secs. 26-1--26-30. Reserved.

ARTICLE II.

SEWER USE

DIVISION 1.

GENERALLY

Sec. 26-31. Purpose.

This article, for the county water and sewer districts, sets forth uniform requirements for direct or indirect contributors into the wastewater collection system of county water and sewer districts, hereinafter referred to as "the district", and enables the district to comply with all applicable state and local laws including



the Clean Water Act (33 USC 1251 et seq.), general pretreatment regulations (40 CFR 403) and The City of Rocky Mount's Code of Ordinances (chapter 21, article II). Objectives of this article are to:

- (1) Prevent the introduction of pollutants into the district's wastewater system which will interfere with the operation of the system;
 - (2) Prevent the introduction of pollutants into the district's wastewater system, which will pass through the system to the POTW of the City of Rocky Mount and if inadequately treated, into any waters of the state or otherwise be incompatible with the system;
 - (3) Protect both district personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
 - (4) Provide for the recovery of the costs of operations, maintenance and improvement/replacement of the wastewater system; and
 - (5) Provide legal means for enforcing required actions.
- (Ord. of 10-6-2003, § 2-1)

Sec. 26-32. Definitions and abbreviations.

(a) *Definitions.* This article is gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings designated in this section:

Act and *the Act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, (33 USC 1251 et seq.)

Ammonia nitrogen means the quantity of ammonia in wastewater expressed as milligrams of nitrogen per liter by weight.

Approving authority means the county water and sewer districts, it's designated representatives, The City of Rocky Mount or it's designated representatives, or the director of the division of environmental management of the state department of environmental health and natural resources or its designee.

Authorized representative of the industrial user means:

- (1) If the industrial user is a corporation, authorized representative shall mean:
 - a. The president, secretary, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or



- b. The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership or a sole proprietorship; an authorized representative shall mean a general partner or the proprietor, respectfully.
 - (3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official, appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is presented in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the district.

Biological oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l)

Building sewer means a sewer conveying wastewater from the premises of a user To the POTW.

Bypass means the intentional diversion of wastewater from any portion of a user's treatment facility.

Categorical standards means national categorical pretreatment standards or pretreatment standard.

Color means the true color due to the substances in solution expressed in milligrams per liter.

Director means the water services director or his designee for the county water and sewer districts that is designated to oversee the operation of the districts.

District means the county water and sewer districts.

Environmental Protection Agency and EPA mean the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Grab sample means a sample which is taken from a waste stream on a one time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Hauled wastes means wastewater (domestic, industrial, holding tank, or seepage) which is transported to the POTW by any means other than through the collection system.

Indirect discharge and discharge mean the discharge or introduction from any nondomestic source



regulated under section 307 (b), (c), or (d) of the Act (33 USC 1317) into the POTW (including holding tanks waste discharged into the system).

Industrial user and *user* mean any person or entity which is a source of indirect discharge.

Industrial wastes means wastes other than domestic sewage resulting from industrial processes.

Infiltration means water other than domestic or industrial wastes that enters the sewers by means of cracks, breaks, or other problems of the wastewater system.

Inflow means water other than wastewater that enters the wastewater system from such as roof leaders, cellar drains, springs, sumps, manhole covers, and cross connections to storm drains.

Interference means the inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or nondischarge permit or prevents sewage sludge use or disposal, in compliance with specified applicable state and federal statutes, regulations or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 et seq.), the Clean Air Act, the Toxic Substance Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical wastes means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Milligrams per liter (mg/l) means the standard unit of measurement used in the sewerage and wastewater industries.

National categorical pretreatment standard and *categorical standard* mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR chapter one, subsection N, parts 405-471.

National Pollution Discharge Elimination System permit and *NPDES permit* mean a permit issued pursuant to G.S. 143-2152.1.

National prohibitive discharge standard and *prohibitive discharge standard* mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in this article and are developed under the authority of 307 (b) of the Act and 40 CFR 403.5.

New source means:

- (1) Any building, structure, facility, or installation from which there may be a discharge of



pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307 (c), provided that the:

- a. Building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. Building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. Building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - d. Production of wastewater generating processes of the building, structure, facility, or installation are independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a new source commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nondischarge permit means a disposal system permit issued by the state pursuant to G.S. 143-215.1.



Pass through means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or nondischarge permit, or a downstream water quality standard.

Person means any individual, partnership, copartnership, firm company, corporation, association, joint stock company trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

pH means a measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment and *treatment* mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment program means the program for the control of pollutants introduced into the POTW from nondomestic sources.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards means prohibited discharge standards, categorical standards, and local limits.

Publicly owned treatment works (POTW) and *wastewater system* mean a treatment works as defined by section 212 of the Act, (33 USC 1292) which is owned in this instance by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this article, the term "publicly owned treatment works" shall also include any sewers that convey wastewater to the POTW from persons outside who are by contract or agreement with, or in any other way, users of the POTW.

Severe property damage means substantial physical damage to property, damage to the user's treatment



facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Significant industrial user means any industrial user of the wastewater disposal system who:

- (1) Has an average daily process waterflow of 50,000 gallons or more;
- (2) Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
- (3) Is required to meet a national categorical pretreatment standard; or
- (4) Is found by the city, the division of environmental management or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

Significant noncompliance and *reportable noncompliance* mean a status of noncompliance defined as follows:

- (1) Violations of wastewater discharge limits:
 - a. *Chronic violations.* Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
 - b. *Technical review criteria (TRC) violations.* Thirty-three percent or more of the measurements are greater than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:
 1. *For conventional pollutants:* BOD, TSS, fats, oil and grease: TRC = 1.4
 2. *For all other pollutants:* TRC = 1.2
 - c. Any other violation of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through; or endangered the health of the sewage treatment plant personnel or the public.
 - d. Any discharge of a pollutant that has caused imminent endangerment to human/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (2) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement



order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

- (3) Failure to provide reports for compliance schedule, self-monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
- (4) Failure to report accurately noncompliance.
- (5) Any other violation or group of violations that the control authority considers to be significant.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 26-91.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office Management and Budget, 1987.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent means the person charged by the director as responsible for the operation of the wastewater system. If no such person has been designated it shall refer to the water services director.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW including but not limited to:

- (1) *Domestic*. Being wastewater (i) from the noncommercial preparation, cooking and handling of food, (ii) from washing or bathing water of various types, and (iii) from sanitary conveniences containing human excrement and similar substances of dwellings, commercial buildings, industrial facilities and institutions.
- (2) *Holding tank*. Being wastewater from nontreatment holding tanks, including but not limited to chemical toilets, campers, trailers, and vacuum pump tank trucks.
- (3) *Industrial*. Being wastewater from industrial manufacturing, commercial, trade or business establishments as distinct from domestic wastewater.



- (4) *Septage*. Being domestic wastewater removed from a septic or Imhoff sewage treatment system or domestic sewage sludge from a package treatment plant.

Wastewater permit means as set forth in section 26-161.

Waters of the state means all streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(b) *Abbreviations*. The following abbreviations when used in this ordinance, shall have the designated meanings:

- (1) BOD - Biochemical Oxygen Demand.
- (2) CFR - Code of Federal Regulations.
- (3) COD - Chemical Oxygen Demand.
- (4) EPA - Environmental Protection Agency.
- (5) gpd - Gallons per day.
- (6) l - Liter.
- (7) mg - Milligrams.
- (8) mg/l - Milligrams per liter.
- (9) N.C.G.S. - North Carolina General Statutes.
- (10) NPDES - National Pollution Discharge Elimination System.
- (11) O & M - Operation and Maintenance.
- (12) POTW - Public Owned Treatment Works Act.
- (13) RCRA - Resource Conservation and Recovery.
- (14) SIC - Standard Industrial Classification.
- (15) SWDA - Solid Waste Disposal Act.
- (16) TSS - Total Suspended Solids.



(17) TKN - Total Kjeldahl Nitrogen.

(18) USC - United States Code.

(Ord. of 10-6-2003, § 2-2)

Cross References: Definitions generally, § 1-2.

Sec. 26-33. Connections to sewer system.

(a) *Permit required.* No person shall make any connection to the wastewater system under the control of and operated by the district nor use a connection made by a previous owner unless and until a permit shall be issued for connection only after the director or his designee has determined the type of connection required by the district, an approved plumbing system has been installed within the dwelling, building, or structure desiring connection.

(b) *Authorization of work and persons performing inspections.* All connections to the wastewater system under the control of and operated by the district shall be made by authorized employees of the district in Accordance with the requirements of the state plumbing code and/or with such other applicable local, state, and federal regulations. If authorized by the director connections may be made by plumbers licensed to perform plumbing work in the state. Any sewer connection to the wastewater system made by any authorized licensed plumber shall be inspected by the director or his designee after said connection is made and prior to covering the connection.

(c) *Connection charge.* A connection charge shall be made for each and every connection made to the wastewater system under the control of and operated by the district and shall be paid to the district prior to the issuance of any permit for a connection. Such connection charge shall be set by the district board and adjusted from time to time as the director determines the need to.

(d) *System impact fee.* In conjunction with permit and connection charges, any connection made to the wastewater system whether made by district forces or licensed plumbers shall also pay an impact fee for the added impact that each connection will put on the system's functioning capabilities. This fee shall be paid prior to issuance of the permit, shall be set by the district board and adjusted from time to time as the director determines the need for.

(e) *Separate connections for each building.* Each individual dwelling, structure, or other building served by a sanitary sewer under the control of and operated by the district shall have a separate connection to the system; provided, that apartments or other multiuse occupancy buildings may have one combined connection. Furthermore, any new structure requiring sanitary sewer facilities and located within 300 feet of an existing district sewer main shall be required to make connection to said main. All required connections shall be a minimum of four inches, located at the property line and shall have a cleanout at finished grade level, with a metal plug or enclosed in a cement collar with a minimum circumference of 12 inches and be a minimum of four inches thick.

(f) *Maintenance; repairs.* Whenever any service to any building or premises becomes clogged, broken, out of order, or in any condition detrimental to the use of the sewer service, the owner, agent or



occupant having charged of such shall be held responsible for the immediate removal or repair of such sewer service necessary to maintain an uninterrupted sewer disposal system. Renewal or repair of the sewer services from the main to the property line shall be made at the expense of the abutting property owner, agent or occupant. Whenever any repair work is required to said portion of the sewer source line it shall be done by authorized employees of the district, unless the director grants permission otherwise, and said property owner shall be billed according to cost involved. Whenever the director allows others to do such repairs it shall be done by a licensed plumber in the state and shall be inspected before covering the work.

(g) *Alternative facilities.* In these cases provided for subsection (a) of this section where a connection to the sanitary sewer system is not required, installations of septic tanks or other facilities shall be constructed in accordance with the requirements of the county health department and approved by them.

(h) *Unacceptable discharges into sewer; alternative disposal.* Under no circumstances will the discharge of treated or untreated domestic sewage or industrial wastes to the storm sewer of the district or to any pond, open ditch, stream or watercourse be permitted within the jurisdiction of the district, except that uncontaminated cooling water may be discharged provided that such a discharge is constructed and within the laws of the state, where the district decides that it is not in the best interest of district to accept any particular industrial waste into the system, such waste may be discharged within the district provided it meets the requirements of the state and county.

(Ord. of 10-6-2003, § 2-3)

Sec. 26-34. Fees.

(a) *Purpose.* It is the purpose of this section to provide for the recovery of costs from users of the district wastewater system for the implementation of the program established in this article and to generate sufficient revenue to pay at least the cost of the operation and maintenance, capital additions, and total debt service necessary to the proper operation and maintenance, (including replacement and additions) of the system. All applicable charges or fees shall be set by the district board and set forth in the schedule of charges and fees that is adopted by the district.

(b) *Authority.* Pursuant to the provisions of Public Law 92-500, section 240(b), the district having received a federal grant for the construction of treatment works shall adopt a system of charges to ensure that each person (or user) receiving waste treatment services within the districts jurisdiction will pay its proportionate share of the costs of operation and maintenance, including replacement, of any waste treatment services provided by the system.

(c) *User charges.* A user charge shall be levied on all users that discharge into the wastewater system.

(1) The user charges shall reflect at least the cost of O & M, capital additions and all related debt service.

(2) Each user shall pay its proportional share of the cost based on the volume of flow and other costs of services.



- (3) The director shall review annually the sewage contributions of users, total cost of debt source, capital additions, O & M, (including replacement) of the wastewater system and will make recommendations to the board for adjustments in the schedule of charges and fees as necessary,
- (4) Charges for flow into the system not directly attributable to the users shall be distributed among all users of the wastewater system based upon the volume of flow of the user.

(d) *Surcharges.* All commercial and industrial users of the wastewater system are subject to surcharges on wastes discharges which exceed the following levels:

- (1) BOD - 200 mg/l.
- (2) TSS - 200 mg/l.
- (3) TKN - 48 mg/l.
- (4) COD - 600 mg/l.
- (5) NH3 - 20 mg/l.

The amount of the surcharge will be based on the current method of billing surcharges charged to the district by the City of Rocky Mount, plus a ten percent administrative charge.

Chapter 21.28.3 of the Code of the City of Rocky Mount shall hereinafter govern and be a part of this section and take precedence in establishing policy for this section. Copies of said section shall be available in the office of water services director for the county water and sewer districts and available upon request.

(e) *Billing.*

- (1) The user charges, as set forth in this section, shall be billed and payable monthly on a separate bill rendered to the proper persons by the billing department of districts.
- (2) Notice of delinquency and termination of service shall be in accordance with this Code.

(f) *Damaging, tampering with equipment or materials.* No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any equipment or materials belonging to the district and used for the purpose of making tests, metering, or examinations and left upon the premises of a person discharging into the districts sewers.

(g) *Violations; penalties, remedies.* If any person violates any provisions of this article, the district shall at a minimum recover from that person the cost of repairing the damages and/or additional wastewater treatment and sewage collection operational and maintenance expenses resulting from that violation.

(Ord. of 10-6-2003, § 2-4)

Sec. 26-35. Confidentiality.



(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, nondischarge permit and/or the pretreatment programs; provided however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.
(Ord. of 10-6-2003, § 2-13-1)

Sec. 26-36. Monitoring facilities.

(a) The district requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the district may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the district's requirements and all applicable local construction standards and specifications.
(Ord. of 10-6-2003, § 2-13-2)

Sec. 26-37. Inspection and sampling.

The district will inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the district, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling records examination and copying or in the performance of any of their duties. The approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring



and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make the necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the district, approval authority, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the director, approval authority, or EPA access to the user's premises shall be a violation of this article. Unreasonable delays may constitute denial of access. If sampling discloses exceeding maximum contaminant levels, the user shall reimburse the district for all cost associated with sampling. (Ord. of 10-6-2003, § 2-13-3)

Sec. 26-38. Search warrants.

If the director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and or sample as a part of routine inspection and sampling program of the district designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the director, approval authority, or EPA may seek issuance of a search warrant from any magistrate of the general court of justice, judge, clerk, or assistant or deputy clerk of any court of record whose territorial jurisdiction encompasses the building, structure, or property to be inspected. (Ord. of 10-6-2003, § 2-13-4)

Secs. 26-39--26-60. Reserved.

DIVISION 2.

ENFORCEMENT

Sec. 26-61. Publication of significant noncompliance.

At least annually, the director shall publish in the daily newspaper with general circulation in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15a NCAC 2h .0903(b) (10), with applicable pretreatment standards and requirements, during the previous 12 months. (Ord. of 10-6-2003, § 2-14-1)

Sec. 26-62. Administrative remedies.

(a) *Notification of violation.* Whenever the director, finds that any industrial user has violated or is violating this article, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement, the director may serve upon such person, a written notice stating the nature of the violation, within 30 days from the date of the notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the director by the user. Submission of the plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) *Consent orders.* The director, is hereby empowered to enter into consent orders, assurances of



voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 26-37.

(c) *Show cause hearing.*

- (1) The director may order any industrial and commercial user who causes or is responsible for an unauthorized discharge, has violated this article or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reason for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.
- (3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 26-37.

(d) *Administrative orders.* When the director finds an individual user has violated or continues to violate this article, permits or orders issued hereunder, or any other pretreatment requirement, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) *Emergency suspensions.*

- (1) The director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or nondischarge permit.



- (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated.
- (3) In the event of a failure to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliance discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of the above-described hearing.

(f) *Termination of permit.* Any user, who violates conditions of this article, or applicable state and federal regulations, is subject to having its permit terminated.

(g) *Injunctive relief.* Whenever a user is in violation of the provisions of this article or an order or permit issued under this article, the director through the district attorney may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(h) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this article or an order or permit issued under this article, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(i) *Public nuisances.* Any violation of the prohibitions or limitations of this article or of a permit or order issued under this article, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person creating a public nuisance requiring abatement by the district shall reimburse the district for any costs incurred in removing, abating or remedying said nuisance.

(Ord. of 10-6-2003, § 2-14-2)

Sec. 26-63. Civil penalties.

(a) Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued under this article, may be fined up to \$10,000.00 per day the violation continues to exist.

- (b) In determining the amount of the civil penalty, the director shall consider the following:
 - (1) The degree and extent of the harm to the natural resources to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;



- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
- (8) The costs of enforcement to the city.

(c) Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection 26-164(b).
(Ord. of 10-6-2003, § 2-14-3)

Sec. 26-64. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. The director shall be empowered to take more than one enforcement action against any noncompliant user.
(Ord. of 10-6-2003, § 2-15)

Sec. 26-65. Affirmative defense to discharge violations.

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.

(b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed operating logs, or other related evidence that:

- (1) An upset occurred and the user can identify the cause of the upset;
- (2) The facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user submitted the following information to the director within 24 hours orally or within five days in writing of becoming aware of the upset.
 - a. A description of the indirect discharge and cause of noncompliance.
 - b. The period of noncompliance, including exact dates and times and if not corrected the anticipated time the noncompliance is expected to continue.
 - c. In any enforcement proceeding, the user seeking to establish the occurrence of an upset



shall have the burden of proof.

- d. Users will have the opportunity for a judicial determination on any claim of upset only in enforcement action brought for noncompliance with categorical pretreatment standards.
- e. Users shall control production of all discharges to the extent necessary to maintain compliance with all applicable categorical pretreatment standards in the event of facility failure and shall so do until such time as facilities are back in service.

(Ord. of 10-6-2003, § 2-15-1)

Sec. 26-66. Noncompliance.

Whenever any user is found to be noncompliant with district standards, the director may, if he deems necessary to protect the health of the public and or the environment, shall have authority to sever the sewer connection to any facility until the user brings his discharge into compliance. In such cases the director will notify the appropriate official at the facility of his intentions to sever said sewer connection until the discharge is in compliance.

(Ord. of 10-6-2003, § 2-16)

Secs. 26-67--26-90. Reserved.

DIVISION 3.

REQUIREMENTS

Sec. 26-91. Prohibited discharge standards.

(a) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system.

(b) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the collection system or POTW, including, but not limited to wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- (2) Solids such as garbage, rags, textile remnants or scraps, except fibers of scraps that will pass through a 0.25 inch mesh screen and will be carried freely in suspension under flow conditions



normally prevailing in public sewers or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference (but in no case solids greater than 0.50 in any dimension).

- (3) Any wastes or water containing more than 200 mg/l of suspended solids.
- (4) Petroleum or derivatives thereof, nonbiodegradable Oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (5) Any wastewater having a ph of less than five or more than ten or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- (6) Any wastewater containing pollutants, including oxygen demanding pollutants. (BOD, COD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- (7) Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the intake of the treatment plant to exceed 104 degrees Fahrenheit or 40 degrees Celsius.
- (8) Any pollutants or nor or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction, with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair or which results in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (9) Any trucked or hauled wastewater, except at discharge designated by the director, in accordance with 26-93.
- (10) Any material that would be identified as hazardous waste according to 40 CFR 261 except as may specifically authorized by the director, and the director of water resources for the City of Rocky Mount.
- (11) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged into the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.
- (12) Any wastewater which imparts color and can not be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plants effluent to render the waters injurious to public health or secondary reaction or to aquatic life and wildlife or to adversely affect the palatability



of fish or aesthetic quality or impair the receiving waters for any designated use.

- (13) Any wastewater containing any radioactive wastes or isotopes except as approved by the director and complies with any state or federal regulations.
- (14) Stormwater, surface water, groundwater, and artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless authorized by the director.
- (15) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 300 mg/l whether emulsified or not. Also prohibited are any waste containing the above substances which may solidify or become viscous in the system at temperatures between 32 and 150 degrees Fahrenheit.
- (16) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (17) Any medical wastes, except as specifically authorized in writing by the director.
- (18) Any material containing ammonia, ammonia salts or other chelating agents which will produce metallic complexes that interfere with the wastewater system.
- (19) Any wastes having more than 20 mg/l by weight of ammonia when expressed as nitrogen.
- (20) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the system.
- (21) Any wastewater causing the treatment plant effluent to violate state law water quality standards for toxic substances as described in 15 A NCAC 2B 0200.
- (22) Wastewater causing, alone or in conjunction with other sources, the treatment plant effluent to fail toxicity test.
- (23) Recognizable portions of the human or animal anatomy.
- (24) Any waters or wastes which in concentration of any given constituent or if quantity of flow exceeds more than 1.5 the average 24 hour concentration or flows during normal operations.
- (25) Any pollutant discharged except in compliance with federal standards promulgated, pursuant to the Clean Water Act of 1977, and any more stringent standards established by the state, City of Rocky Mount and the districts.

(Ord. of 10-6-2003, § 2-5-1)

Sec. 26-92. Pretreatment standards.

Pretreatment standards established by the federal and state governments and the City of Rocky Mount



shall be considered to be the standards for the districts and an integral part of this article. The districts reserve the right to impose more stringent limits if deemed necessary by the director.
(Ord. of 10-6-2003, § 2-5-2)

Sec. 26-93. Local limits.

(a) An industrial waste survey will be required of any user or potential user whose wastes or potential wastes exceed typical domestic waste concentrations or whose wastes contain pollutants which contribute greater than one percent of the design or treatment capacity of the wastewater treatment plant. The industrial waste survey will be used to implement the general and specific discharge prohibitions listed in this division. Industrial user specific local limits will be developed ensuring that the POTW's maximum allowable head works loading is not exceeded for particular pollutants of concern for each industrial user.

(b) The following limits will be considered to be domestic limits for purposes of initiating the industrial waste survey:

- (1) 200 mg/l BOD.
- (2) 600 mg/l COD.
- (3) 200 mg/l TSS.
- (4) 20 mg/l NH₃.
- (5) 48 mg/l TKN.
- (6) 2 mg/l fluoride.
- (7) 0.003 mg/l arsenic 0.041 mg/l cyanide.
- (8) 0.003 mg/l cadmium.
- (9) 0.050 mg/l chromium, total.
- (10) 0.061 mg/l copper.
- (11) 0.049 mg/l lead.
- (12) 0.0003 mg/l mercury.
- (13) 0.0003 mg/l molybdenum.
- (14) 0.36 mg/l nickel.
- (15) 0.05 mg/l silver.



(16) 0.03 mg/l selenium.

(17) 0.100 mg/l zinc.

Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The director, may impose mass limits in addition to, or in place of the concentration based limits listed in subsection (b) (1) through (17) of this section.
(Ord. of 10-6-2003, § 2-5-3)

Sec. 26-94. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
(Ord. of 10-6-2003, § 2-5-4)

Sec. 26-95. Right of revision.

The districts reserve the right to establish limitations and requirements which are more stringent than those required by either the state or federal regulation if deemed necessary to comply with the objectives presented in this article.
(Ord. of 10-6-2003, § 2-5-5)

Sec. 26-96. Dilution.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the state, City of Rocky Mount or the districts.
(Ord. of 10-6-2003, § 2-5-6)

Sec. 26-97. Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the districts and any person, group or corporation as long as the agreement does not violate any applicable laws that would prevail.
(Ord. of 10-6-2003, § 2-5-7)

Sec. 26-98. Storage tanks; control manholes; controlling devices.

- (a) Persons discharging into the districts wastewater system shall meet the following requirements:
 - (1) *Storage tanks.* In order to equalize flows over a 24-hour period, each person discharging a waste into the wastewater system having a volume of flow of 20,000 gallons or more a day shall construct and maintain at his own expense a suitable storage tank as determined by the director.



Such tank will have the capacity of 100 percent of the normal flow of one 24-hour period and an outlet to the wastewater system that is controlled by a water works type rate controller or other approved devices. The setting of the rate controller shall be determined by the director.

- (2) *Control manhole.* Any person discharging industrial or commercial wastes into the wastewater system shall construct and maintain at his own expense a control manhole, downstream from any treatment, storage, or other approved works, to facilitate observation, measurement and sampling of all wastes being discharged, The control manhole shall be constructed at a suitable location and approved by the director.
- (3) *Controlling devices.* The control manhole shall be, unless authorized by the director not to, equipped with a permanent-type measuring device such as a flume, weir, nozzle, or other suitable device approved by the director. Further, it may be required to have an automatic sampling device for the collection of samples within the control manhole. These, when required, shall be installed and maintained at the discharger's expense to ensure a safe and accessible operation.

(b) Plans for the construction of such tank, control manhole, and controlling devices shall be approved by the director prior to any construction of said devices.
(Ord. of 10-6-2003, § 2-5-8)

Secs. 26-99--26-130. Reserved.

DIVISION 4.

PRETREATMENT OF WASTEWATER

Sec. 26-131. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and wastewater permits issued under division 5 of this article. The user shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set in section 26-91. Time restrictions shall be as specified by EPA, the state, or the director according to the most stringent.

- (1) Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the district for review, and shall be approved by the director and the water resources director for the City of Rocky Mount before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the districts under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the director prior to the user's initiation of the changes.
- (2) Additional pretreatment measures.



- a. Whenever deemed necessary, the director may require users to restrict their flows during peak flows periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the users compliance with the requirements of this article.
- b. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure time distributed equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- c. Grease, oil, and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected cleaned, and repaired regularly, as needed by the user at their expense.
- d. Users with the potential to discharge flammable substances may required to install and maintain an approved combustibile gas detection meter.

(Ord. of 10-6-2003, § 2-6-1)

Sec. 26-132. Accidental discharge/slug control plans.

The director may require any user to develop, submit for approval, and implement an accidental discharge/slug control plan.

(Ord. od 10-6-2003, § 2-6-2)

Sec. 26-133. Hauled wastes.

The disposal of hauled wastes through the district's wastewater system shall be under the control of the director and shall be in accordance with any conditions set by him, the City of Rocky Mount or district Board.

- (1) Septic tank wastes may be introduced into the district's wastewater only at approved locations designated by the director and only at approved times. Such wastes shall not violate section 26-34 or any other requirements established by the district. At his discretion, the director may require haulers to obtain a permit.
- (2) The director shall require haulers of wastes to obtain written permission from the director which said hauler shall have in his possession or readily available at all times.
- (3) The director may require that all waste be subject to supervision of district personnel during dumping of wastes into the wastewater system and that all additional cost be paid at his expense.



- (4) Waste haulers shall provide to the district a waste tracking form which shall include at a minimum the name and address of the waste hauler, the name and address of the generator of the waste, the approximate amount of the load, and the type of waste (ex: domestic sewage, grease etc.).
- (5) The director may require that the generator of the hauler of waste provide to the district wastewater samples for any given load at their expense.
- (6) All wastes haulers shall obtain prior approval from the director before introducing any industrial or institutional generated wastes into the wastewater system of the district.
- (7) Fees for waste haulers shall be established by the district board and set forth in the schedule of fees for the water and sewer districts.

(Ord. of 10-6-2003, § 2-6-3)

Secs. 26-134--26-160. Reserved.

DIVISION 5.

PERMITS

Sec. 26-161. Wastewater discharges.

It shall be unlawful for any person or entity located inside or outside the district to connect to or discharge into the wastewater system without first obtaining the permission of the district. By discharging into the wastewater system the user agrees to comply with all the terms and conditions of this article, as well as any permits, enforcement actions, or orders issued hereunder. When requested, by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of request.

(Ord. of 10-6-2003, § 2-8-1)

Sec. 26-162. Industrial or commercial permits.

(a) All industrial or commercial establishments that desire to discharge into the district's wastewater system shall obtain a permit from the director. Each applicant shall furnish to the director any information that he requests in regards to the characteristics of the wastes to be discharged. This may include but not limited to an engineer's report of the expected levels of contaminants in the wastewater. The director shall review this information with the director of water resources for the City of Rocky Mount and then determine if the classification of the user should be a significant industrial wastewater user.

(b) The county water and sewer districts, as a customer of The City of Rocky Mount's POTW, must make sure that all it's users conform to the City of Rocky Mount's standards. The following shall apply: When an industrial user or commercial establishment is determined, prior to or after connection, to be a significant industrial wastewater user, it shall be subject to applicable standards imposed by the City of Rocky Mount on it's significant industrial wastewater users. More specifically, article II section 21-33.2 of the Code of Ordinances for the City of Rocky Mount, which hereafter is a part of this article in its entirety. Copies of this



article shall be made available to interested parties by request to the director.
(Ord. of 10-6-2003, § 2-8-2)

Sec. 26-163. Power; authority for inspection.

The approving authority and other duly authorized employees of the district bearing proper identification shall be permitted to enter upon all nonresidential properties discharging into the wastewater system for the purpose of inspection observation, measurement, sampling or testing. Nothing in this article shall be construed to relieve any person from liability in the event such representative is injured while performing said inspection, observation, measurement, or sampling and any other related activities.

(Ord. of 10-6-2003, § 2-8-3)

Sec. 26-164. Contesting decisions involving permits and enforcement.

- (a) *Initial adjudicatory hearing.*
- (1) *Right to a hearing.* A user shall have the right to an adjudicatory hearing before the county manager if:
 - a. Its application for a permit is denied;
 - b. Its application for a permit is granted subject to conditions the user contends is unacceptable;
 - c. It is assessed a civil penalty pursuant to section 26-63; or
 - d. It is issued any administrative order, including an ex parte order pursuant to section 26-62(d).
- (2) *Request for a hearing.* It is the policy of the districts that all reasonable efforts should be made to attempt and settle any disputes arising between the user and the districts through informal procedures. Nevertheless, any user wishing to exercise the right to a hearing in subsection (a)(1) of this section must make written demand for the hearing to the director, within 30 days following receipt of permit denial, the granting of a significant industrial user permit subject to conditions the user contends are unacceptable, a civil penalty assessment, or an administrative order it wishes to contest. The written request for a hearing must identify the specific issues to be contested, and must state whether the user contends that the director, in taking the action at issue, has (1) exceeded his authority or jurisdiction (2) failed to use proper procedure (3) acted arbitrarily or capriciously; and or (4) failed to act as required by law. Unless such written demand is made within the time specified, and contains the information specified, the actions of the director shall constitute final action of the district and shall be binding.
- (3) *Conduct of the hearing.*
 - a. All adjudicatory hearings shall take place at the Edgecombe County Administration



Building, 201 Saint Andrews Street, Tarboro, N.C. The county manager shall give the user at least ten days prior written notice of the date time and place of the hearing.

- b. The user and the district shall be allowed to introduce into evidence at the hearing any arguments on the issues of the law and policy, and any documentary evidence and testimony relevant to the actions of the director at issue. All documentary evidence shall become part of the official record. Any testimony admitted must be given under oath. The user and the district shall have the right to cross examine any witnesses called by the other party. Both the user and the district may offer rebuttal evidence.
 - c. The county manager may, in his discretion, issue notices requiring the attendance and testimony of any witness and the production of any evidence relative to any matter involved in the hearing.
 - d. The hearing shall be recorded by the clerk. The transcript from the hearing shall become part of the official record.
- (4) *Manager's decision.* The county manager shall render his written decision with respect to the action of the director within 45 days of receipt by the director of a request for a adjudicatory hearing. The county manager may either uphold, overturn, or modify the directors action at issue. The director shall forward a copy of the county manager's written decision to the user by certified mail.
- (b) *Final appeal hearing.* Any decision made by the county manager pursuant to subsection (a)(4) of this section may be appealed, to the district board by the user. In order to obtain such a final hearing, the user must serve upon the director a written notice of appeal within ten days of receipt of notice of the county manager's written decision. If the user fails to give such notice, the user shall lose the right to further appeal, and the district action, as set forth in the manager's decision, shall become final. If such notice is properly given, the district board shall consider the record developed before the county manager and shall hear any arguments relevant to the district action at issue. If the board determines that further evidence is needed, it will remand the issue to the county manager for further fact-finding proceedings, to which the provisions of subsection (a)(3) and (4) of this section shall apply. The board shall make a final written decision reviewing the manager's decision within 90 days from the date the appeal was received. The board shall uphold, reverse, or modify the decision of the county manager. A copy of the written decision of the board shall be forwarded to the user by certified mail.
- (c) *Status of permits pending administrative or judicial appeal.*
- (1) *New permit.* Upon appeal, including judicial review in the general courts of justice, of the terms and conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - (2) *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of a renewed permit, the



terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(d) *Official record.* When a final decision is issued under subsection (b) of this section the board shall have prepared an official record of the case that includes:

- (1) All notices, motions, and other like pleadings;
- (2) A copy of all documentary evidence introduced;
- (3) A certified transcript of all testimony taken; and
- (4) A copy of the final decision of the district board.

(e) *Judicial review.* Any person against whom a final order or decision of the district board is entered, pursuant to subsection (b) of this section may seek judicial review in the nature of certiorari of the order or decision by filing a written petition within 30 days after receipt of a copy of such order or decision, but not thereafter, with the county superior court along with a copy of such notice to the district. Within 30 days after receipt of the copy of the petition of judicial review, the board shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. of 10-6-2003, § 2-8-4)

Secs. 26-165--26-190. Reserved.

DIVISION 6.

ANALYTICAL AND REPORTING REQUIREMENTS

Sec. 26-191. Analysis and sampling techniques.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(Ord. of 10-6-2003, § 2-9-1)

Sec. 26-192. Sampling collection.

(a) Except as indicated in subsection (b) of this section, the user must collect wastewater samples using flow or time proportional composite collection techniques as required by their individual permits. The director may authorize the use of a minimum of four grab samples where the user demonstrated that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.



(b) Samples for oil and grease, temperature, ph, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
(Ord. of 10-6-2003, § 2-9-2)

Sec. 26-193. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of the report shall govern.
(Ord. of 10-6-2003, § 2-9-3)

Sec. 26-194. Record keeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples and the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the district or where the user has been specifically notified of a longer retention period by the director.
(Ord. of 10-6-2003, § 2-9-4)

Sec. 26-195. Baseline monitoring reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection (b) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described in subsection (a) of this section shall submit the following information:
- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description



should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) *Measurement of pollutants.*
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated process. Instantaneous, daily maximum, and longterm average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 26-191.
 - c. Sampling must be performed in accordance with procedures set out in section 26-192.
- (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indication whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 26-196.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified.
(Ord. of 10-6-2003, § 2-10-1)

Sec. 26-196. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by section 26-195:

- (1) The schedule shall contain progress increments in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to on subsection (1) of this section shall exceed nine months;



(3) The user shall submit a progress report to the director, no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with increment of progress, the reason for any delay, and if appropriate the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the director.
(Ord. of 10-6-2003, § 2-10-2)

Sec. 26-197. Compliance with categorical pretreatment standard deadline report.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsection 26-195(b)(4) through (6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's longterm production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 21-33.2 of the Code of Ordinances for the City of Rocky Mount and county water.

(Ord. of 10-6-2003, § 2-10-3)

Sec. 26-198. Periodic compliance reports.

The following conditions shall apply to all permits that are required to submit periodic compliance reports:

(1) All significant industrial users shall, at a frequency determined by the director, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 21.33.2 of the Code of Ordinance for the City of Rocky Mount and section 26-196 of this Code.

(2) All wastewater samples must be representative of the user's discharge wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be rounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsection 26-195(b), the results of this monitoring shall be included in the report.

(Ord. of 10-6-2003, § 2-10-4)



Sec. 26-199. Reports of changed conditions.

Each user must notify the director, of any planned significant changes to the user's operations or system, which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

- (1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- (2) The director may issue a wastewater discharge permit or modify an existing wastewater discharge permit under the same in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(Ord. of 10-6-2003, § 2-10-5)

Sec. 26-200. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) of this section. Employers shall ensure that all employees, who may have cause such a discharge to occur, are advised of the emergency notification procedure.

(Ord. of 10-6-2003, § 2-10-6)

Sec. 26-201. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as he may require.

(Ord. of 10-6-2003, § 2-10-7)



Sec. 26-202. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the district within 30 days after becoming aware of the violation. The user is not required to resample if the director monitors at the user's facility at least once a month, or if the district samples between the user's initial sampling and when the user receives the results of this sampling. (Ord. of 10-6-2003, § 2-10-8)

Sec. 26-203. Notification of the discharge of hazardous waste.

The discharge of hazardous wastes is prohibited. (Ord. of 10-6-2003, § 2-10-9)

Secs. 26-204--26-230. Reserved.

ARTICLE III.

WATER AND SEWER SYSTEM

DIVISION 1.

GENERALLY

Sec. 26-231. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall use the following meanings when used in this article.

Administrator means the water services director for the county water and sewer districts or any other person designated by the board of commissioners to perform the functions and exercise the responsibilities assigned by this article.

BOD (biological oxygen demand) means the quantity of oxygen (expressed in mg/l) required to satisfy the five-day oxygen demand of a million pounds of domestic sewage in industrial wastes (or a combination of both) when tested in accordance with the procedures given in the latest edition of Standard Methods of the Examination of Water and Sewage, published by the American Public Health Association. BOD is a measure of the polluttional strength of wastes of any nature.

Combined sewer means a sewer receiving both surface runoff and sewage.

Domestic sewage means liquid wastes from bathrooms, toilet rooms, kitchens and home laundries.

Garbage means solid waste from the preparation, cooking, handling and dispensing of foods.



Industrial wastes means liquid wastes from institutional, commercial, or industrial process and operations as distinct from domestic sewage.

Liquid wastes means waste products that are either dissolved in or suspended in a liquid.

Natural outlet means the body of water, stream, or watercourse, receiving the discharge waters from the sewer plant or formed by the discharge water from the sewer plant.

pH means the logarithm (base ten) of the reciprocal of the concentration of the hydrogen ions in grams per liter of solution. It indicates the acidity and alkalinity of a substance. A pH of 7.0 is considered neutral. A stabilized pH is one that does not change beyond the specific limits when the waste is subject to aeration. A pH value below 7.0 is acidic and above 7.0 is alkaline.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food, shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with particles no greater than one-half inch in any dimension.

Sanitary sewer means a pipe or conduit that carries sewage or polluted industrial wastes and to which storm water, surface water and ground water or unpolluted industrial wastes are not intentionally admitted.

Sewage. See *liquid wastes*.

Sewage collection system. See *sanitary sewer system*.

Sewage treatment plant means the facility where sewage is collected and treated.

Suspended solids means solids that either float on the surface or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Water system means the water utility system owned and operated by the districts, including all devices and facilities for the treatment, storage, and distribution of water.

Cross References: Definitions generally, § 1-2.

Sec. 26-232. Penalties and remedies.

(a) As provided in section 26-78, termination of service is a remedy available to the district to enforce any of the provisions of this article.

(b) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4; G.S. 17-26, 17-61(a), and (b), 17-76, 17-77, 17-138, 17-145, 17-147.

(c) A violation of any of the sections listed in subsection (b) above shall subject the offender to a civil penalty of \$100.00 dollars. If a person fails to pay this penalty within ten days after being cited, the district may recover the penalty by filing a civil action.



- (d) The district may seek to enforce any of the provisions of this chapter through any appropriate action.
- (e) Each day that a violation continues after the offender has been notified of such shall constitute a separate offense.
- (f) If a violation of any of the provisions of this chapter results in a danger to the public health or safety, the director may abate such through any legal means available.
- (g) The district may seek to enforce this chapter by using any one, or combination thereof, the foregoing remedies stated throughout this chapter.

Secs. 26-233--26-260. Reserved.

DIVISION 2.

SERVICE REGULATIONS

Sec. 26-261. Application for service.

Application for water or sewer service shall be made at the district's office during normal business hours. Applications shall be made on the forms prescribed, shall be made in the name of the person responsible for payment of the bill, and shall be signed by the customer or his authorized agent.

Sec. 26-262. Denial of service for nonpayment of prior accounts.

(a) The districts may reject an application for service if there is an outstanding amount owed to the district for water or sewer in the applicant's name. The districts reserve the right to discontinue service to a customer when it is discovered the customer has used another name or the name of another individual to avoid paying an outstanding balance owed to one of the districts for the active account or a previous account.

(b) A lessee making an initial application for service to his leased dwelling or building shall not be refused service by the district solely because of an outstanding balance owed to the district by another for services previously to that same address.

Sec. 26-263. Deposits.

(a) Every application for service shall make a cash deposit with the District in the amount set forth in the schedule of charges. The purpose of the deposit is to provide security for the payment of all charges by the customer. The district retains the right, with 30 days written notice, to require the customer to increase the deposit no more than twice the amount of the highest monthly bill rendered in the previous 12 months.

(b) Initial deposits shall be made with the initial service application. Additional deposits, if required from subsection (a) of this section, shall be made within 30 days after receiving the written notice.



(c) A separate deposit shall be paid for each service installed.

(d) No interest shall be paid on such deposit by the district to the depositor.

(e) Upon termination of service, the deposit shall either be applied to any outstanding bill or refunded to the customer.

Sec. 26-264. Rates.

Rates, deposits, service charges and fees shall be established by resolution of the board of commissioners. Such rates shall be kept on file in the district's office. The director of water services shall review said rates from time to time and report to the commissioners the need to adjust. The director will at a minimum review these rates annually.

State Law References: Authority to fix and enforce rates, G.S. 160A-314.

Sec. 26-265. Minimum service charge.

(a) The minimum service charge as provided in the rate schedule shall be billed to each metered account monthly.

(b) Minimum charges and reduced tap fees. From time to time the districts may, in an effort to increase the customer base or to solicit customers in an area where construction is to take place, offer customers a reduced fee for tap installation. Customers utilizing the reduce tap fee shall pay a minimum monthly charge as established by the board regardless of weather or not the tap is in use until such time as the initial fee paid and the minimum monthly charges paid equal the amount of a full tap fee as determined by the cost at the time the reduced fee was paid. The customer shall have 90 days from the date the meter is installed and made available before this charge will be applied to the account.

(c) The minimum charge shall apply from the date the meter is installed and shall not be waived for nonoccupancy of the structure served unless the customer has paid a full tap fee with no discount and has requested service be discontinued until further notice.

Sec. 26-266. Service fees.

Service fees in amounts as determined by the board from time to time and listed in the schedule of fees maintained in the districts' office shall be charged for the connection, reconnection, cutting on or off, transfer of account and rereading after the third reread of a meter when the reread shows no error in readings.

Sec. 26-267. Returned check fee.

A service charge in an amount determined from time to time by the board and listed in the schedule of charges maintained in the districts' office shall be charged for a check received in payment of utility bills, deposits, or other charges, which are dishonored by the customer's bank because of insufficient funds or a closed account.



Sec. 26-268. Past due charge.

A past due charge as determined by the board from time to time and listed in the schedule of charges maintained in the districts' office shall be charged to any account which has a balance greater than the past due charge on the date established as the past due date in section 26-70.

Sec. 26-269. Delinquent charge.

A delinquent fee as determined by the board from time to time and listed in the schedule of charges maintained in the districts' office shall be charged to an account with a balance greater than the minimum monthly bill on the date established in section 26-70.

Sec. 26-270. Access to premises.

Duly authorized agents of the district shall have access at all reasonable hours to the premises of the customer for the purpose of installing and removing district property, inspecting piping or apparatus, reading or testing meters, or for any other purpose in connection with the district's service or facilities. Application for service shall constitute consent by the customer to access his premises for these purposes.

Sec. 26-271. Meter reading and determination of charges.

(a) Ordinarily, meters will be read once per month and bills rendered once per month. However, the district reserves the right to vary this schedule if necessary or desirable.

(b) When two or more meters are installed in the same premises for different customers, the district shall clearly identify which meter serves which customer.

(c) Where there are multiple dwelling units on one lot, unless separate meters are installed, the property owner shall be responsible for the bill of all usage.

(d) Unless there is a combination meter installed, readings from different meters shall not be combined into one account.

(e) Bills for water and sewer service shall be calculated in accordance with the rate schedule in effect at the time of billing.

(f) It shall be the policy of the districts to read all meters monthly to render an accurate reading for calculating bills. However, the districts reserve the right to estimate the reading when circumstances require for but not limited to the following:

- (1) Inclement weather.
- (2) Natural disasters.
- (3) Meters obstructed by property of the customer.



- (4) Special requirements for flow.
- (5) Meters located where a threatening animal is not restrained in a manner acceptable to the meter reader.

When estimates are used for subsections (f)(3) and (5), the customer can request a special reading to determine the accuracy of the estimate, in which case the customer must be present to correct the situation which prevented the reading from being taken.

Sec. 26-272. Bills.

- (a) Bills are due upon receipt and become past due on the 15th day of the month after the close of business or on after the close of business on the next business day when the 15th falls on a weekend or holiday. Past due charges are applied thereafter before the next business day.
- (b) Bills shall notify customers of the provisions of subsection (c) of this section, and shall contain a phone number where a district employee can be contacted concerning questions about the bill.
- (c) Bills become delinquent at the close of business on the 25th day of the month or on the next business day thereafter when the 25th falls on a weekend or holiday. Delinquent charges are thereafter applied before the next business day and the service will be disconnected. Delinquent charges are applied regardless of whether the account has been disconnected for nonpayment or not.

Sec. 26-273. Meter testing.

If the customer believes that a water meter on his premises is not registering his water consumption accurately, he may request the meter be tested. The standard of accuracy shall be 2 1/2 percent of volume measured. If there is no inaccuracy in the standard of measurement all costs associated with the testing of the old meter and the cost of the new meter shall be paid by the customer. If the test reveals inaccuracy of the meter no charges shall be applied to the account. These fees shall be billed to the customer during the next billing cycle and are payable, as part of the water bill. Failure to make payment as prescribed shall result in termination of service and other actions as are necessary to use as outlined in this chapter.

Sec. 26-274. Calculation of bills where equipment fails.

- (a) If the seal of a meter is broken by other than district personnel or if the meter fails to register the use of water, the customer shall be charged the amount computed using the appropriate following formula for the period in which the meter failed to register:
 - (1) If the customer has occupied the premises for three years or more the customer will be charged the average of the three corresponding months in the previous three years.
 - (2) If the customer has occupied the premises for less than three years he shall be billed for the average monthly consumption.



(b) If the customer demonstrates to the reasonable satisfaction of the district that a break or leak in the line or system of the premises plumbing has contributed to an extraordinary charge for the billing period, the district may recompute the bill using the following procedure: The average of the three preceding monthly bills shall be used to compute the average consumption rate and this amount of usage shall be used to compute the bill.

(c) Any customer having his bill computed by subsection (b) of this section shall not have it calculated in this manner again for the next 12 months.

Sec. 26-275. Prohibited activities.

No unauthorized person shall:

- (1) Supply or sell water from the district's system to other persons or carry away water from a hydrant, public water fountain, or other such public outlet without written permission from the district.
- (2) Manipulate, tamper with, or harm in any manner whatsoever any water line, sewer line, main or other appurtenances or any other part of the water or sewer system including but not limited to any testing equipment, or other devices for inspecting, testing, and or measuring water or sewer systems performance.
- (3) Tamper with the water meter so as to alter the true reading for the amount of water consumed.
- (4) Attach or cause to be attached any connection to the water system prior to the service line going through the meter.
- (5) Cause any unauthorized dumping of wastewater or sludge into the sewer system.

Sec. 26-276. District property; maintenance.

(a) All meters, cut-offs located before the meter, and the meter box shall remain the property of the district and shall be kept in good repair and working order by the district. The customer is responsible for all devices located after the meter including the meter coupling, backflow preventer, cut-off and piping.

(b) The district shall:

- (1) Maintain the water lines within the highway right-of-ways and district easements at its expense.
- (2) Provide immediate repair in the event of leaks or damage to the system in these right-of-ways or easements.
- (3) Reserve the right to refuse service if there is a cross connection to a private water supply or no backflow preventer.



- (4) Assume no liability for damage only if such damage results directly from the district's negligence.
- (5) Assume no liability for damage done by or resulting from any defects in the piping, fixtures, or appliances on the customer's premises.
- (6) Assumes no liability resulting from negligence of a third person.

Sec. 26-277. Customer responsibility.

The customer shall:

- (1) Maintain all piping be it water or sewer on his premises at his expense.
- (2) Contact the district of any problems with the district's water or sewer system located in any easement or right-of-way.
- (3) Guarantee protection for district facilities, equipment, or apparatuses located on his property.
- (4) Pay cost associated with the relocation of district facilities, pipes or other apparatus if done at the owner's request.
- (5) Not make or cause to be made any cross connection with another water supply.
- (6) Install and maintain adequate back-flow devices.
- (7) Install pressure-reducing valves if deemed necessary.
- (8) Install a sewer cleanout if not one at the property line at his expense.
- (9) Be responsible to the district for damage to the districts property that is the fault of the customer. The cost of such repairs will be added to the customer's bill.

Sec. 26-278. Service termination.

- (a) The district may terminate service for any of the following reasons:
 - (1) Refusal by customer to pay in full an account that remains delinquent in excess of five days.
 - (2) Prevention of fraud or abuse by the customer.
 - (3) Failure of the customer to comply with this chapter.

Before termination the customer shall be notified of the intent to terminate the service under the grounds of



subsection (a)(3) of this section and given an opportunity to be heard on the matter.

(b) The district reserves the right to discontinue or interrupt service temporarily for any of the following:

- (1) Emergency repairs.
- (2) Insufficient supply or treatment capacity.
- (3) Strike, riot, flood, accidents, acts of god, or any other unavoidable cause.

(c) The district shall make a good faith effort to notify affected customers before service is temporarily halted. However, the customer, by making application for service, agrees to hold the district harmless from liability for any damages that may occur as a result of the temporary discontinuance of service for the causes stated in this section.

State Law References: Authority to fix and enforce rates, G.S. 160A-314; discontinuance of service for nonpayment, G.S. 160A-314(d).

Sec. 26-279. Notice of proposed termination of service; right of hearing.

(a) On the day that an account becomes delinquent or as soon thereafter as possible, the district shall mail to the customer a notice informing him of the amount owed and stating that:

- (1) The account is delinquent.
- (2) The customer is entitled to be heard before service termination by a specified employee at a specific address or telephone number during normal business hours if there is a dispute over the amount of the bill.
- (3) Unless the bill is paid in full by a specified date the district may terminate service without further notice.

(b) The service termination date stated in the notice shall be five days after the account has become delinquent.

(c) If the district proposes to terminate the service without any reason other than nonpayment, the district shall first mail the customer a notice, which will state:

- (1) The district proposes to terminate the service.
- (2) The reason for termination of service and what the customer can or can not do to avoid the termination.
- (3) That the customer is entitled to be heard by a designated employee prior to the termination at a specified address or telephone number during normal business hours if there is any discrepancy



for the reason given for termination.

Sec. 26-280. Hearing.

(a) The hearing provided for in section 26-79 may be held by phone or at the request of the customer in person at the district office as specified in the notice.

(b) The hearing shall be conducted informally. The customer shall be given every reasonable opportunity to bring to the attention of the designated employee information that bears upon the reasons for the proposed termination.

Sec. 26-281. Stay of termination pending hearing outcome.

(a) So long as the hearing provided for in section 26-79 is requested and held before the termination date indicated in the notice, the district shall postpone the proposed termination date until three days after the written decision is served on the customer.

(b) As soon as practical after the hearing, the employee conducting the hearing will inform the customer in writing of his decision and the reason thereof. If the proposed termination relates to an unpaid account, the writing shall also inform the customer that unless the account is paid in full within three days after the notice is served the service will be terminated. The decision may be served upon the customer in person or by certified mail, return receipt requested.

(c) If the customer fails to make timely request for the hearing provided for in section 26-79, or, following a hearing fails to comply with the decision of the district within the time specified; the district may terminate the service without further notice.

Sec. 26-282. Lessee may take responsibility for payments.

(a) Whenever a water meter serves a single dwelling unit or, in the case of nonresidential structures, a single tenant, and the occupant of the dwelling unit or the tenant is not the person responsible for water or sewer payments, and the customer's account becomes delinquent, then a copy of the notice of proposed termination notice required in section 26-79 shall be sent to the occupant of the dwelling unit or tenant of the nonresidential structure. Such notice shall include or be accompanied by a statement setting forth the rights of such tenant or occupant in subsection b below.

(b) When a lessor becomes delinquent in his water or sewer payments, a lessee may take responsibility for such payments and may thereby become the customer. The lessee shall not be responsible for the debts of the lessor.

Sec. 26-283. Procedure for service termination and reinstatement.

(a) Only authorized personnel of the district shall effect water and sewer service termination.

(b) When service is terminated, discontinued, or interrupted for any reason set forth in this article, it



shall be unlawful for any person other than a duly authorized agent or employee of the district to do any act that results in the resumption of service.

(c) When service is terminated for nonpayment of bills, the service application deposit shall be applied to the outstanding bill.

(d) If there are deposit funds remaining after the deposit is applied to the outstanding bill, the excess shall be refunded to the customer. If a portion of the bill remains outstanding, the district may proceed to collect the balance in the usual way provided by law for the collection of debts.

(e) Before service will be reinstated, the customer shall be required to make full payment on any charges still outstanding on his account. In addition, the customer shall also redeposit with the district an amount equal to his application deposit or the amount of the outstanding bill at the time of termination, whichever is greatest.

(f) A charge for service reinstatement shall be made as set by the district board.

Secs. 26-284--26-310. Reserved.

DIVISION 3.

CONNECTION TO SYSTEM

Sec. 26-311. Application.

(a) Every application for a sewer or water connection shall state the name of the owner of the lot, the name of the street on which the lot is situated, the number of the building if there is one on the lot, if not, a description of the location of the lot, the number and kind of connections desired, and any other pertinent information. The applicant shall sign every application.

(b) Every application shall be accompanied by the following fees:

(1) Service activation fee.

(2) Account deposit.

(3) Tap fee (if applicable).

(c) Permits may be subject to prior approval by the director after an on-site inspection.

Sec. 26-312. Required.

(a) Every person, business, corporation, government entity, or other organization erecting a structure that will require water or sewer services shall be required to make connection to the district's water and sewer system when these services are available from the district and such service is located within 250 feet of the



property and does not require service to go across the land of another.

(b) Any property owner within 250 feet of a district water or sewer line and having to cross the land of another to make a connection may obtain an easement from the owner of the land for connection at his sole expense if he so desires to do so.

(c) Wherever the district has a water and sewer system available to a property no private water or sewer system will be allowed without approval from the director.

Sec. 26-313. Construction.

(a) Water and sewer connections shall be made simultaneously whenever connection to both water and sewer are required.

(b) When a permit for connection to the water or sewer system of the district has been issued, the district by either its own work force or by contractor will make the connection and run the service lines to the property line.

(c) Subdivision developments requiring water and or sewer shall be done by the developer, at his expense and under the supervision of the district. All installations in subdivisions shall conform to the district manuals for materials and specifications.

(d) Meter placement shall be at the discretion of the district but shall be coordinated with the property owner.

(e) The district shall provide each meter with a cut-off immediately in front of the meter.

(f) Each meter shall be provided with a cut-off directly adjacent to the district meter box assembly by the property owner for use of the owner to cut off the water when needed.

(g) Each meter assembly shall have a backflow preventer as required by state law.

(h) The customer's piping and apparatus shall be installed at his expense, by a licensed plumber in the state, according to all local and state codes and in accordance with the sanitary regulations of the state commission for health.

(i) Piping on the customer's premises shall be so arranged that it will be conveniently located in respect to district mains.

Sec. 26-314. Separate connections required for each lot.

(a) For purposes of this section, each "lot" shall mean a parcel of land whose boundaries have been established by some legal instrument and by which the property is recognized as a separate legal entity for purposes of transfer of title.



(b) There shall be for every lot to which water or sewer service is available a separate connection with the main and separate service pipe, tap, and meter.

Sec. 26-315. Requirements for connections of service where multiple buildings are located on one lot.

Where there are multiple buildings or structures on one lot and the owner desires to have one common connection for both water and sewer and service is available, the owner shall meet the following requirements:

- (1) The buildings must be in compliance with all zoning regulations.
- (2) The building permit shall show a single owner and shall indicate the complex of buildings to be constructed.
- (3) The applicant shall be required to submit to the district a site plan showing the proposed water and sewer systems. A registered engineer in the state shall prepare such plans and such engineer shall be responsible for inspection of the work. Such plans shall include:
 - a. Size of water lines, materials to be used for construction, valve locations, and hydrant locations. All construction from the water main to the meter shall be in accordance with district standards and specifications. Construction beyond the meter may be with materials permitted by the state plumbing code. A licensed utility contractor shall do all construction.
 - b. Size of sewers and materials to be used for construction. All sewers eight inches and larger in size shall be constructed in accordance with all applicable local and state building codes. All construction shall be done by a licensed master plumber or a licensed utility contractor.

Sec. 26-316. Inspections.

By making application for service or requesting development approval the customer agrees that the district has the right to inspect the private water system components, and any sewer system components installed in a project or structure before the district allows the system or components to be joined to the districts system or before accepting it as part of the district system. In development installations the district reserves the right to require the developer to provide qualified inspection services on site at his expense. Such inspectors will provide the district with documentation of the inspections and certify that as-built drawings are accurate.

Sec. 26-317. Laterals to remain property of district.

All meters, meter boxes, pipes and other equipment furnished and used by the district or it's contractor in installing any water connections shall be and remain property of the district.

Sec. 26-118. Maintenance of private distribution and collection systems.

All owners of lots or parcels, which have a private water distribution or wastewater collection system on



it shall maintain them in good repair at all times. Failure to correct problems that cause an immediate danger to the health and safety of the public shall constitute a nuisance and shall be abated by the district if so deemed necessary by the director. All expenses incurred by the district for abatement of such nuisances shall be the responsibility of the owner and payable to the district upon being billed.

Secs. 26-319--26-350. Reserved.

DIVISION 4.

EXTENSIONS

Sec. 26-351. Extension of service.

The district recognizes its responsibility to provide services to all improved property inside the district limits on a nondiscriminating basis and, subject to availability of funds, to extend its service lines to all such properties unless it is unreasonable to do so. The district may determine that an extension of service is unreasonable for the following reasons:

- (1) The cost of service extension is excessive in terms of the number of customers to be served, or because of topographical, engineering, technical or other problems.
- (2) The provision of service will adversely affect the supply of water to other customers or will adversely affect wastewater treatment capabilities.
- (3) Other good and sufficient reasons.

Sec. 26-352. Developing properties.

(a) The cost of extending services to developed areas in the district limits shall be borne initially by the district. However, the district may recoup its cost in whole or part by levying a special assessment to benefited properties in accordance with G.S. 160A-216 et seq.

(b) Extensions in the jurisdiction of the district shall be done by district forces or by contract led by the district.

(c) Mains shall be extended through public right-of-ways or through the acquisition of easements, and in no case across private land without permanent easement.

Sec. 26-353. Subdivision and new development.

(a) The responsibility for extending service to new subdivisions and other developed properties is that of the developer or landowner. Said installations shall be done according to district specifications and turned over to the district upon completion with a one year warranty on all work done and materials supplied. The district may contract with the developer to install such with district personnel.



(b) The cost of extending the service lines for subdivisions or developments shall be borne by the developer subject to the following: If the district requires larger than needed lines to serve the area and other areas may be served by said lines then the district may reimburse the developer for the additional cost of installing the oversized line.

Sec. 26-354. Extensions made by other than district forces.

(a) Extension made by other than district forces shall be made according to district standards and specifications, which shall govern the size of the lines, location, grade, materials, manner of installations, and provision for future extensions.

(b) No construction or alteration of the district's systems shall be done without detailed plans prepared by a registered engineer in the state and approved by the director. Such plans shall include sufficient information to determine that the installations will be according to district specifications.

(c) Installations shall be in accordance with the same provisions as outlined in section 26-63.

(d) By making application for extending district service lines, the person responsible agrees to indemnify and hold harmless the district from all loss, cost, damage, liability, or expense resulting from loss or injury to any person or property as a result of extending the lines.

Sec. 26-355. Inspection of work by others.

(a) All work on extension of service lines by other than district personnel shall be provided with an on site inspector at the expense of the person responsible for the extension installations. This inspector shall provide the district with documentation of the inspection findings, actions, and accuracy of as-built drawings.

(b) If in the judgment of the director there is a lack of adequate competent supervision on the site he may at his option:

(1) Halt work until approved supervision is obtained and the work done in accordance with district specification and requirements; or

(2) Provide constant inspection by district personnel at the expense of the developer.

(c) Inspection by district personnel does not imply the district as insuring installation according to plans or specifications. The person responsible for the extensions shall be responsible for this and may be required to remove or replace any work or materials not meeting district specifications, procedures, or requirements.

Sec. 26-356. Dedication of line extensions.

(a) All lines constructed and connected with the facilities of the district pursuant to this article shall be conveyed to and become the property of the district upon completion of installation and activation of the lines. Connection to the system and acceptance by the district shall constitute conveyance of the lines.



(b) Following the dedication of the lines to the district, the lines come under the exclusive control of the district and shall be maintained by the district. However, the conveyor of the lines shall guarantee the project against defects for a one-year period from the date of completion and acceptance by the district.

Sec. 26-357. Reimbursement.

Under certain situations as determined by the board of the district, some line extensions may be eligible for reimbursement. This shall be determined by the policy of the county. The board at a regularly scheduled meeting must approve any such reimbursement. Reimbursements may be made for but not limited to the following:

- (1) Lines that are installed to serve a new development but through the can provide service to additional areas not being served by the development. In this case the reimbursement may be limited to the cost of the line not serving the new development directly but providing service to an additional area under the jurisdiction of the district.
- (2) Economic incentives as prescribed by the board.
- (3) Assessments collected by the district for availability fees.

Secs. 26-358--26-380. Reserved.

DIVISION 5.

FIRE APPARATUS

Sec. 26-381. Installation of fire hydrants.

(a) Developers of subdivisions may be required as a condition of connecting to the district water system, to install fire hydrants in accordance with the districts specifications and requirements.

(b) The district may contract with a developer to install fire hydrants in some cases but the developer shall be responsible for all costs in all cases.

(c) Construction of any hydrant constructed pursuant to subsection (a) of this section shall constitute dedication to the district of such hydrant.

(d) All hydrants located on public rights-of-ways and in district owned easements shall be the property of and maintained by the district.

(e) The owner of the property shall maintain hydrants located on private property. The district may perform maintenance and repairs on such hydrants at the owner's expense.

(f) Authorized personnel from the district, local fire department personnel and others authorized by



the district shall only operate fire hydrants located in the district's system.

(g) No person shall operate, tamper with, or discharge water from a hydrant without the express consent of the district.

(h) Persons wishing to purchase bulk quantities of water shall do so through the use of hydrants in the district. All laws and regulations of the state and district rules and regulations shall govern such use. The minimum requirement for the filling of mobile vessels with district water shall be by means of an approved backflow prevention device or through an open-air gap as prescribed by the laws governing public water supplies in the state.

Sec. 26-382. Fire protection service lines.

(a) Subject to district guidelines, fire protection service lines may be connected to the system.

(b) All fire protection service lines and systems connection requests shall submit to the district a detailed set of plans of the design of the connection and system for district approval. Final connection to the district system shall not be made until the director or his designee has inspected and approved the installed system.

(c) Persons properly licensed to make such installations in the state shall install all fire protection systems.

(d) Backflow prevention devices as designated by the rules governing public water supplies in the state and the district's rules and regulations shall be used in the installation of fire protection systems and must be maintained at the owner's expense.

Sec. 26-383. Metering of fire protection service lines.

The district may require the owner of any fire protection line to install at his expense either a detection check valve with a bypass meter or a full flow fire line meter. If not required initially the district may at any time, if it has reason to suspect that water is being consumed through the line for uses other than fire protection, require the installation of a meter.

Secs. 26-384--26-410. Reserved.

DIVISION 6.

RESTRICTIONS ON WATER USE

Sec. 26-411. Emergency mandatory water conservation measures.

In the event of natural disasters, droughts, and other unforeseen situations that significantly reduce the capacity of the system to provide an adequate supply of potable water, the director may impose mandatory water conservation measures in order to reduce the demand. Imposing of said restrictions shall be proceeded by



notification from the director to the county manager and the chairman of the board of commissioners. Mandatory measures may include but shall not be limited to the following:

- (1) No domestic, commercial, or agricultural irrigation use.
- (2) No showering baths.
- (3) No car, truck, boat, equipment, R.V., etc. washing.
- (4) No washing of outside surfaces such as driveways, patios, buildings, etc.
- (5) Limiting time of use to certain hours.
- (6) No clothes washing except on certain days and times.
- (7) No commercial processing use.
- (8) Temporary service termination for large industrial users.
- (9) No filling of swimming pools, minimal amounts may be used to keep a pool filled that is already operating.
- (10) No use of water from fire hydrants except fire suppression.
- (11) No use of water for dust control.
- (12) No use of water for construction.
- (13) No intentional waste of potable water.
- (14) No serving of drinking water in restaurants unless requested by customers.
- (15) No operating water cooled air conditioners unless health and safety are adversely affected.

Sec. 26-412. Implementation.

The director, through proper notification to the county manager and the chairman of the board, may implement the preceding measures in whole or part, or in moderation as he deems necessary. The director shall consider the severity of the situation from information supplied to him from the suppliers of water to county water and sewer and then submit this information to the county manager and chairman of the board as support for his implementing any restrictions. Said restrictions shall not be effective until both the county manager and the chairman of the board have properly been notified and issued their written approval of said actions.

Sec. 26-413. Notification to customers.



After receiving written approval from the county manager and the chairman of the board, the director will take the necessary actions to implement any restrictions. The director shall use any available means to inform the customers of county water and sewer of the restrictions to include but not limited to the following:

- (1) Radio and TV broadcasts.
- (2) Local newspapers.
- (3) Door to door written notification.
- (4) Law enforcement.
- (5) Fire service.
- (6) Emergency services.

Sec. 26-414. Enforcement.

Enforcement of any restriction imposed by the district shall be by authorized agents of county water and sewer, law enforcement officers, fire service personnel, and emergency services personnel.

Sec. 26-415. Penalties.

Persons found to be in violation of this article shall be subject to a fine of \$100.00 per violation, termination of service, and or legal prosecution. Repeated violations shall be considered a public nuisance and charged with such in a court of law with applicable penalties as others of the same charge.



APPENDIX A

WELL ORDINANCE*

* **Editors Note:** Printed herein is the Edgecombe County, North Carolina, Well Ordinance, adopted by the county board of commissioners on September 16, 1996. Amendments to the Well Ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Well Ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of ordinances has been used. Additions made for clarity are indicated by brackets.

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Sec. 1-1. General provisions.

(a) *Authorization.* The Edgecombe County Board of Health is authorized under the provisions of G.S. 130A-39 to adopt appropriate rules for the protection of the public health.

(b) *Purpose.* Consistent with the responsibility to protect and advance the public health, it is declared to be the policy of the Edgecombe County Board of Health to require that the location, construction, repair and abandonment of water supply wells conform to such reasonable standards and requirements as may be necessary to protect the public health and groundwater resources.

(c) *Scope.* No person shall construct, or abandon, or cause to be constructed, or abandoned any well contrary to the provisions of these regulations and standards.

(d) *Conflict with other laws and regulations.* The provisions of any federal, state, or municipal law or regulation establishing standards affording greater protection to the public welfare, safety, health and groundwater resources shall prevail within the jurisdiction of such agency or municipality over standards established by these regulations.

(e) *Penalties.* Any person who willfully violates any provision of these regulations, or any order



issued pursuant thereto, shall be guilty of a misdemeanor. As provided by G.S. 130A-18, the health director may also institute an action in the Edgecombe County Superior Court for injunctive relief. All other remedies provided by state law shall be available to the health director.

(f) *Inspection.* Before being used to supply water for human consumption, all newly constructed wells shall be inspected and found to comply with the provisions of these regulations.

(g) *Appeals.* Any person aggrieved by any action of the health department representative with regard to wells shall first confer with the local health director who may affirm or reverse the original decision of the representative. If the person is dissatisfied with the health director's decision, he shall give written notice of appeal to the health director within 30 days after the person's grievances. Upon receiving this notice the health director shall, within five working days, transmit to the chairman of the board of health the notice and all other pertinent papers. The board shall hold a hearing within 15 days after it receives the notice of appeal. The board shall give the appellant no less than ten days notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. No person shall take any action prohibited by the health department until there is a final resolution of the grievance. On appeal the board shall have the authority to affirm, modify or reverse the challenged action. The board shall issue a concise written decision setting forth its reasons with all deliberate speed after the hearing.

Sec. 1-2. Definitions.

(a) *Abandon* means to discontinue the use of and to seal the well according to the requirements of Rule .0113, 15-NCAC, Subchapter 2C, North Carolina Division of Environmental Management.

(b) *Abandoned well* means a well whose use or construction has been discontinued, or which is in such a state of disrepair that continued use for obtaining groundwater or other useful purpose is impracticable.

(1) *Temporarily abandoned well* means any usable well whose use has been temporarily discontinued because of well or pump maintenance problems, and newly constructed wells not yet put into service.

(2) *Permanently abandoned well* means any well removed from or not yet put into service; or whose use is impractical because of faulty construction, location, water quality, insufficient yield, unserviceable casing and screen; or which has been removed from service because it is no longer serves its intended use.

(c) *Access port* means an opening in the well casing or well-head installed for the primary purpose of determine water level in the well.

(d) *Agent* means any person who by mutual and legal agreement with a well owner has authority to act in the owner's behalf in executing applications for permits.

(e) *ASTM* means the American Society for Testing and Materials.

(f) *Aquifer* means a geological formation, group of formations, or part of a formation that will yield



usable quantities of water to wells.

(g) *Board of health* means the Edgecombe County Board of Health or its official representatives.

(h) *Casing* means pipe or tubing constructed of specified materials and having specified dimensions and weights, that is installed in a borehole, during or after completion of the borehole, to support the side of the hole and thereby prevent caving, to allow completion of the well, to prevent formation material from entering the well, to prevent the loss of drilling fluids into permeable formations, and to prevent entry of undesirable water.

(i) *Consolidated rock* means rock that is firm and coherent, solidified or cemented and that has not been decomposed by weathering. Examples include but are not limited to granite, gneiss, limestone, slate or sandstone.

(j) *Construction of wells* includes all acts necessary to construct wells for any intended use, including the location and excavation of the well, placement of casings, grouting, screens, and fittings development and testing.

(k) *Contamination* means the presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

(l) *Domestic use* means use of water for drinking, bathing, household purposes, livestock or gardens.

(m) *Grout* shall mean and include the following:

(1) *Neat cement grout* means a mixture of not more than six gallons of clear potable water to one 94 pound bag of Portland cement. Up to five percent, by weight, of Bentonite clay may be used to improve flow and reduce shrinkage.

(2) *Sand cement grout* means a mixture of not more than two parts sand and one part cement and not more than six gallons of clear potable water per 94 pound bag of Portland cement.

(3) *Concrete grout* means a mixture of not more than two parts gravel to one part cement and not more than six gallons of clear potable water per 94 pound bag of Portland cement. One hundred percent of the gravel must pass through a one-half inch mesh screen.

(4) *Gravel cement grout, sand cement grout or rock cutting cement grout* means a mixture of not more than two parts gravel and sand or rock cuttings to one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement.

(n) *Health department* means the Edgecombe County Health Department, Environmental Health Section.



(o) *Health director* means the Director of the Edgecombe County Health Department or his authorized representative.

(p) *Health department representative* means an authorized agent of the Edgecombe County Health Department, Environmental Health Section.

(q) *Installing pumps and pumping equipment* means placing and preparing pumps and pumping equipment for operation, including all construction involved in making entrances to the well and establishing seals.

(r) *Liner pipe* means pipe that is installed inside a completed and cased well for the purpose of sealing off undesirable water or for repairing ruptured or punctured casing or screens.

(s) *Nonpotable mineralized water* means brackish, saline, or other water containing minerals of such quantity or type as to render the water unsafe, harmful, or generally unsuitable for domestic use.

(t) *Owner* means any person who holds all or any of the ownership or property rights in the well being constructed. For purposes of these regulations, a well's construction on a parcel of land creates a presumption that the owner of the land also owns the well, in absence of contrary agreement in writing.

(u) *Permit* means a written permit issued by the health director authorizing or allowing the construction or repair of any well as defined in this ordinance.

(v) *Person* means any individual, firm, partnership, association, public or private institution, municipality or political subdivision, governmental agency, or private or public corporation organized or existing under the laws of this state or of any other state or country, or any group or combination of the above.

(w) *Polluted water* means water containing organic or other contaminants of such type and quantity as to render it unsafe, harmful or suitable for human consumption.

(x) *Private well water supply* means any well water supply furnishing water for up to 14 connections or up to 24 individuals and is not a public water supply.

(y) *Public water system* means a water system as defined in 15A NCAC 18C (Rules Governing Public Water Supplies).

(z) *Pumps and pumping equipment* means the well seal and any other equipment or materials used or intended to be used for withdrawing or obtaining groundwater.

(aa) *Repair* means work involved in deepening or changing depths, reaming, sealing, installing, perforating, screening or cleaning, acidizing or redeveloping a well, excavation, or any work which results in breaking or opening the well seal.

(bb) *Site* means the place where any facility, activity, or situation is physically located, including adjacent or nearby land used in connection with the facility, activity, or situation.



(cc) *Specific capacity* means the yield of the well expressed in gallons per minute per foot of draw-down of the water level.

(dd) *Static water level* means the level at which the water stands in the well when the well is not being pumped and is expressed as the distance from a fixed reference point to the water level in the well.

(ee) *Unconsolidated rock formation* means those rock formations that are not solid, e.g., sand, clay, shell, saprolite or decaying rock.

(ff) *Water supply* means any source of groundwater.

(gg) *Water supply system* means pump and pipe used in connection with or pertaining to the operation of a water well including pumps, distribution service piping, pressure tanks and fittings.

(hh) *Well* means any excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of locating, testing, developing, draining, or recharging any groundwater reservoirs or aquifer, or that may control, divert, or otherwise cause the movement of water from or into any aquifer.

(ii) *Well capacity* means the maximum quantity of water that a well will yield continuously.

(jj) *Well driller, driller, or water-well contractor* means any person, firm or corporation engaged in the business of constructing a well.

(kk) *Well-head* means the upper terminal of the well including adaptors, ports, valves, seals, and other attachments.

(ll) *Well seal* means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or curbing of a well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the well at the upper terminal.

Sec. 1-3. Well driller registration.

(a) Every person, firm or corporation engaged in the business of using power machinery to drill, bore, core or construct wells in Edgecombe County shall register annually with the health department.

(b) Registration shall be accomplished during the period from January 1 to January 31 of each year, or other such time the health department may determine.

(c) Registration shall be accomplished by completing and submitting to the health department a registration application form provided by the health department for this purpose.

(d) Upon submitting a properly completed application form, the applicant will be issued a certificate of registration.



Sec. 1-4. Permits.

- (a) It shall be unlawful for any person to construct a well in Edgecombe County without first obtaining a permit from the health director. The permit shall be obtained by the well owner or his authorized agent.
- (b) The location of any private well water supply in Edgecombe County shall be approved by the health director before any construction activity on the lot is begun. Any site for a public well water supply shall be approved by an authorized representative of the Division of Environmental Health, Public Water Section.
- (c) The well contractor shall not commence any drilling activity until the well permit has been obtained. The driller shall maintain a copy of the permit on the job at all times during the construction of the well. The driller shall be responsible for assuring all required setbacks and separations are met. If the driller has any questions concerning the siting of the well, he shall call the health department prior to beginning construction.
- (d) The health director is authorized to revoke any permits issued pursuant to these regulations upon the determination that these regulations are not being fully complied with.
- (e) Unless otherwise specified in writing by the Edgecombe County Health Department, permits shall become invalid after 60 months from the date of issuance if the construction has not been completed during that time period. When a permit has become invalid, the installation shall not be commenced or completed until a new permit has been obtained.
- (f) The fee for a new well permit shall be established by the board of health and approved by the board of county commissioners and is payable to the Edgecombe County Health Department at the time the permit application is submitted.

Sec. 1-5. Standards of construction.

- (a) *Location.*
 - (1) The well shall not be located in an area generally subject to flooding. Areas which have a propensity for flooding include those with concave slope, alluvial or colluvial soils, gullies, depressions, and drainage ways. The site shall be graded and sloped so that surface water is diverted away from the well.
 - (2) The well shall be located at a site that permits access for maintenance, repair, treatment, testing and such other attention as may be necessary.
 - (3) The minimum horizontal separation between a well and potential sources of groundwater contamination shall be as follows unless otherwise specified:
 - a. Septic tank and drainfield 100 ft.



- b. Other subsurface ground absorption waste disposal system 100 ft.
 - c. Industrial or municipal sludge-spreading or wastewater-irrigation sites 100 ft.
 - d. Water-tight sewage or liquid-waste collection or transfer facility 50 ft.
 - e. Other sewage and liquid-waste collection or transfer facility 100 ft.
 - f. Cesspools and privies 100 ft.
 - g. Animal feedlots or manure piles 100 ft.
 - h. Fertilizer, pesticide, herbicide or other chemical storage areas 100 ft.
 - i. Nonhazardous waste storage treatment or disposal lagoons 100 ft.
 - j. Sanitary landfills 500 ft.
 - k. Other nonhazardous solid waste landfills 100 ft.
 - l. Animal barns 100 ft.
 - m. Building foundation 50 ft.
 - n. Surface water bodies 50 ft.
 - o. Chemical or petroleum fuel underground storage tanks regulated under 15A NCAC 2N:
 - (i) With secondary containment 50 ft.
 - (ii) Without secondary containment 100 ft.
 - p. Property boundaries 10 ft.
 - q. All other potential sources of groundwater contamination 100 ft.
- (4) For a well serving a single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in subparagraph (a) (3) of this section, the required separation distances shall be the maximum possible but shall in no case be less than the following:
- a. Septic tank and drainfield 50 ft.
 - b. Water-tight sewage or liquid-waste collection or transfer facility 50 ft.
 - c. Building foundations 25 ft.



d. Cesspools and privies 50 ft.

(5) Actual separation distances must conform with the most stringent of applicable federal, state or local requirements.

(b) *Source of water.*

(1) The source of water for any well intended for domestic use shall not be from a water bearing zone or aquifer that is known to be contaminated or that contains unpotable mineralized water.

(2) The source shall be at least 20 feet below land surface.

(c) *Drilling fluids and additives.* Drilling fluids and additives shall not contain organic or toxic substances and may be comprised only of the formational material encountered during drilling, or materials manufactured specifically for the purpose of borehole conditioning or water well construction.

(d) *Casing.* Casing materials and construction shall be in accordance with Rule .0107 (d) 15-NCAC Subchapter 2C of the North Carolina Division of Environmental Management.

(e) *Grouting.*

1. Casing shall be grouted to a minimum depth of 20 feet below land surface.

2. For large diameter wells, commonly referred to as "board" wells, cased with concrete pipe or ceramic tile, the following shall apply:

a. If the casing joints are not sealed, the construction shall be as follows:

1. The diameter of the bore hole shall be at least six inches larger than the outside diameter of the casing;

2. The annular space around the casing shall be filled with a cement-type grout to a depth of at least 20 feet.

3. The annular space around the casing below the grout shall be filled with sand or gravel.

4. The gravel-pack material shall be composed of quartz, granite, or similar rock material and shall be clean, rounded, uniform, water-washed and free from clay, silt, or other deleterious material.

5. The gravel shall be adequately disinfected.

b. If the casing joints are sealed, the construction shall be as follows:



1. The bore hole shall have a minimum diameter of six inches larger than the outside diameter of the casing to a depth of at least 20 feet below the land surface.
2. The annular space around the casing shall be filled with approved grout to a depth of 20 feet below the land surface.
3. Bentonite grout may only be used in that portion of the borehole that is below the water table throughout the year.
4. Grout shall be placed around the casing by one of the following methods:
 - a. *Pressure.* Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular area around the casing and overflows at the surface.
 - b. *Pumping.* Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space which can be raised as the grout is applied. The grout hose or pipe should remain submerged in grout during the entire operation.
 - c. *Other.* Grout may be emplaced in the annular space by gravity flow in such a way to ensure complete filling of the space to a minimum depth of 20 feet below land surface.
5. If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
6. All grout mixtures shall be prepared prior to emplacement.
7. The well shall be grouted within five working days after the casing is set.
8. No additives which will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
9. Where grouting is required by the provisions of this section, the grout shall extend outward from the casing wall to a minimum thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; excepting, however, that large diameter bored wells shall meet the requirements of subparagraph (e) (2) of this rule.

(f) *Well development.* All water supply wells shall be properly developed by the well driller. Development shall include the removal of formation materials, mud, drilling fluids and additives.

(g) *Well-head completion.*



1. *Well contractor identification plate.*

- a. An identification plate, showing the drilling contractor and registration number and the information specified in part (g) (1) (e) of this section shall be installed on the well within 72 hours after completion of the drilling.
- b. The identification plate shall be constructed of a durable weatherproof, rustproof metal.
- c. The identification plate shall be permanently attached to the well casing or enclosure floor around the casing where it is readily visible.
- d. The identification plate shall not be removed from the well casing or enclosure floor by any person.
- e. The identification plate shall be stamped with a permanent marking to show the:
 - (i) Total depth of well;
 - (ii) Casing depth (ft.) and inside diameter (in.);
 - (iii) Yield in gallons per minute;
 - (iv) Static water level and date measured;
 - (v) Date well completed.

2. *Pump installer identification plate.*

- a. An identification plate, displaying the name and registration number of the pump installation contractor, shall be permanently attached to either the above ground portion of the well casing, or the enclosure floor if present, within 72 hours after completion of the pump installation;
- b. The identification plate shall be constructed of a durable waterproof, rustproof metal.
- c. The identification plate shall not be removed from the well casing or enclosure floor by any person.
- d. The identification plate shall be stamped with a permanent marking to show the:
 - (i) Date the pump was installed;
 - (ii) The depth of the pump intake; and



(iii) The horsepower rating of the pump.

(h) *Pumping and pumping equipment.*

1. The pumping capacity of the pump shall be consistent with the intended use and yield characteristics of the well.
2. The pump and related equipment for the well should be conveniently located to permit easy access and removal for repair and maintenance.
3. The base plate of a pump placed directly over the well shall be designed to form a watertight seal with the well casing or pump foundation.
4. In installations where the pump is not located directly over the well, the annular space between the casing and pump intake or discharge piping shall be closed with a watertight seal preferably designed specifically for this purpose.
5. The well shall be properly vented at the well head to allow for the pressure changes within the well except when a suction lift type pump is used.
6. A hose bibb shall be installed at the well head by the person installing the pump for obtaining water samples. In the case of offset jet pump installations the hose bibb shall be installed on the return (pressure) side of the jet pump piping. A backflow prevention device shall be installed on the hose bibb.
7. A priming tee shall be installed at the well head in conjunction with offset jet pump installations.
8. Joints of any suction line installed underground between the well and pump shall be tight under pressure.
9. The drop piping and electrical wiring used in connection with the pump shall meet all applicable underwriters specifications.
10. Contaminated water shall not be used for priming the pump.

Sec. 1-6. Well tests for yield and capacity.

(a) Every new well constructed for use as a private water supply shall be tested for capacity by a method outlined in Rule .0110, 15-NCAC, Subchapter 2C, North Carolina Division of Environmental Management.

(b) Yield test results must be submitted to the Edgecombe County Health Department within five days after completion of the test/s.

Sec. 1-7. Well disinfection.



(a) Chlorination. All wells and water supply systems shall be disinfected upon completion of construction, maintenance, repairs and pump installation and prior to sampling as follows:

1. Chlorine shall be placed in the well in sufficient quantities to produce a chlorine residual of at least 100 mg/l in the well. A chlorine solution may be prepared by dissolving high test calcium hypochlorite (trade names include HTH, Chlortabs, etc.) in water. About 0.12 lbs. or two ounces of hypochlorite containing 70 percent available chlorine is needed per 100 gallons of water for a 100 mg/l chlorine residual. As an example, a well having a diameter of six inches has a volume of about 1.5 gallons per foot. If the well has 200 feet of water, the minimum amount of hypochlorite required would be 0.36 lbs. ($1.5 \times 200 \text{ feet} = 300 \text{ gallons}$, $0.12 \text{ lbs. per } 100 \text{ gallons}$, $0.12 \times 3 = 0.36 \text{ lbs.}$).
2. The chlorine shall be placed in the well by one of the following methods or its equivalent:
 - a. Chlorine tablets may be dropped in the top of the well and allowed to settle to the bottom.
 - b. Chlorine solutions shall be placed in the bottom of the well by using a bailer or by pouring the solution through the drill rod, hose or pipe placed in the bottom of the well. The solution shall be flushed out of the drill rod, hose or pipe by using water or air.
3. Agitate the water in the well to insure thorough dispersion of the chlorine.
4. The well casing, pump column and any other equipment above the water level in the well shall be thoroughly rinsed with the chlorine solution as a part of the disinfecting process.
5. The chlorine shall be dispersed throughout the water supply by running each tap or other fixture until a chlorine odor is evident.
6. The chlorine shall stand in the well and water supply system for a period of at least 24 hours.
7. The well shall be pumped until the system is clear of the chlorine before the system is sampled or placed in use.

(b) Other materials and methods of disinfection may be used upon prior approval by the health director.

Sec. 1-8. Well maintenance and repair.

(a) Every well shall be maintained so that it will not be a source or channel of contamination or pollution to the water supply or any aquifer.

(b) When repairs are made to a well, the well-head and well seal shall be made to conform to existing standards. All materials used in the maintenance, replacement, or repair of any well shall meet the requirements for new installation.



(c) Broken, punctured or otherwise defective or unserviceable casings, screens, fixtures, seals, or any other parts of the well-head shall be repaired or replaced as soon as possible unless the well is permanently abandoned.

(d) Repairs to wells completed with a buried seal (the well-head terminating below ground) shall include extending the well casing above land surface. The extension shall be made as follows:

1. A tapered sleeve shall be inserted inside of the casing and shall extend at least six inches down into the existing casing. The extension casing shall be welded or bonded to the existing casing around the outside of the joint; or
2. A sleeve shall be heated and wedged over the existing casing with at least six inches of overlap.
3. Cement grout shall be placed around the casing, extending from land surface to depth of at least one foot below the joint formed by the casings. The grout shall have a minimum thickness of one and five-tenths inches.

(e) National Sanitation Foundation (NSF) approved PVC pipe rated at 160 PSI should be used for liner casing. The liner casing shall be installed with centering guides to insure proper centering in the well. The annular space around the liner casing shall be at least five-eighths inches and shall be completely filled with neat-cement grout.

Sec. 1-9. Abandonment of wells.

(a) Any well which has been abandoned, either temporarily or permanently, shall be abandoned in accordance with Rule .0113 15-NCAC Subchapter 2C North Carolina Division of Environmental Management.

(b) The well driller shall complete the construction or abandonment of the well within 30 days of commencement of the construction.

Sec. 1-10. Records required.

(a) Any person completing or abandoning any well in Edgecombe County shall submit to the Edgecombe County Health Department and to the well owner a record of the construction or abandonment which includes the owner's name, the well's location, diameter and depth, casing depth, the method of finishing or abandoning, static water level, pumping water level, yield, pump type, capacity and setting and date of completion or abandonment.

(b) Any person repairing a well shall submit to the Edgecombe County Health Department and the well owner a record of the repair to include the owner's name, location of the well, change in construction and materials replaced, and date of repair.

(c) The reports required in [sub]sections (a) and (b) above shall be submitted to the Edgecombe County Health Department within 15 days after completing construction, abandonment or repair.



(d) Reports shall be certified by the contractor or other person completing the construction, abandonment or repair.

Sec. 1-11. Variances.

The health director or health department representative may grant a variance upon a finding that compliance with the provisions of these regulations is impractical because of conditions beyond the control of the well owner, or because compliance would result in unreasonable or unnecessary hardship to the well owner. Requests for variances must be in writing and addressed to the health director. A variance may be issued by the health director or health department representative and may be conditioned on the submission of periodic progress reports. Any variance herein shall be contingent upon the granting of a variance of Rule .0100 15 NCAC Subchapter 2C North Carolina Division of Environmental Management when applicable. It may be revoked or modified after 30 days notice to the persons affected by the revocation or modification, and it may be extended from one date certain to another if circumstances warrant such extension.

Sec. 1-12. Severability.

If any provision or clause of these regulations or the application thereof shall be declared invalid by a court of competent jurisdiction, such declaration shall not invalidate any other provision, clause, or application of these regulations.

Sec. 1-13. Implied guarantee.

These rules, or adherence to these rules shall not be taken as a guarantee of producing a safe, potable water supply.

Sec. 1-14. Effective date.

These rules adopted by the Edgecombe County Board of Health on September 16, 1996 shall be in full force and effect from and after January 1, 1997.



APPENDIX B

UNIFIED DEVELOPMENT ORDINANCE*

* **Editors Note:** Printed herein is the Edgecombe County, North Carolina, Unified Development Ordinance, adopted by the county board of commissioners on August 2, 1999, and amended through June 3, 2002. Amendments to the Unified Development Ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Unified Development Ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of ordinances has been used. Additions made for clarity are indicated by brackets.

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ARTICLE I.

PURPOSE AND AUTHORITY

Sec. 1-1. Short title.

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

Sec. 1-2. Repeals and enactment.

1-2.1. *Repeal of inconsistency.* All ordinances, or portions thereof, of Edgecombe County which relate to zoning, subdivision, and land use which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

1-2.2. *Enactment.* This ordinance is hereby enacted and shall be the Unified Development Ordinance for Edgecombe County.



1-2.3. *Effective date.* This ordinance was originally adopted on August 2, 1999 and shall become effective on August 2, 1999.

Sec. 1-3. Purpose.

1-3.1. *General purpose.* It is the purpose of this ordinance to promote the health, safety, and general welfare of the residents of Edgecombe County through the regulations of this ordinance.

1-3.2. *Zoning regulation purpose.* The zoning regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Lessen congestion on the roads;
- (B) Secure safety from fire, panic and other dangers;
- (C) Provide adequate light and air;
- (D) Prevent the overcrowding of land;
- (E) Avoid undue concentration of population;
- (F) Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;
- (G) Protect water quality within public water supply watersheds;
- (H) Preserve and enhance visual attractiveness and economic vitality;
- (I) Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic; and
- (J) Establish a zoning vested right upon the approval of a site specific development plan pursuant to G.S. 153A-344.1.

1-3.3. *Cluster and zero side setback regulation purpose.* The single-family dwelling cluster and zero side setback regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Encourage innovation in residential development by providing efficient, attractive, flexible and environmentally sensitive design;
- (B) Lower the costs of housing by reducing the lot size and the per dwelling unit linear footage of roads, water lines, storm sewers and sanitary sewers;



- (C) Reduce the future cost of infrastructure maintenance and, therefore, the burden upon taxpayers and ratepayers;
- (D) Encourage development in areas which have major roads and utility lines in place, but are experiencing little or no development;
- (E) Protect water quality, preserve wildlife habitats, and protect natural features such as streams, lakes, wetlands, and trees; and
- (F) Reduce the amount of grading necessary for site preparation.

1-3.4. *Planned unit development purpose.* The planned unit development regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Promote all of the purposes listed in section 1-3.3, cluster and zero side setback regulation purpose;
- (B) Allow diversification of uses in developments intended as planned, unified projects;
- (C) Allow variation in the relationship of residential and nonresidential uses and structures in such planned unified projects;
- (D) Reduce traffic congestion by providing opportunities for employment and services closer to residential areas; and
- (E) Encourage innovation by providing flexibility in design and layout requirements to achieve a greater choice of living and working environments.

1-3.5. *Manufactured housing regulation purpose.* The manufactured housing regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

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

1-3.6. *Subdivision regulation purpose.* The subdivision regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Promote orderly growth and development;
- (B) Provide for suitable residential and nonresidential developments with adequate roads and utilities and appropriate building sites;



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

1-3.7. *Sign regulation purpose.* The sign regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

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

1-3.8. *Off-road parking, stacking, and loading regulation purpose.* The off-road parking, stacking, and loading regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Ensure a sufficient amount of off-road parking, stacking, and loading areas for various land uses;
- (B) Ensure easy, convenient circulation of vehicles within parking and loading areas;



- (C) Minimize the potential for conflict with traffic on public roads; and
- (D) Permit the shared use of parking areas by establishments and/or activities that have different hours of operation.

1-3.9. *Buffer yard purpose.* The buffer yard regulations adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

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

1-3.10. *Watershed protection purpose.* The watershed protection regulations adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Protect those portions of designated public water supply watersheds which lie closest to existing and proposed public water supply sources from activities which could degrade water quality in those water supply sources;
- (B) Reduce the volume of nutrients and other chemicals that could enter the water supply by reducing the amount of runoff that any given development will generate;
- (C) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soil, thus alleviating the sedimentation of water supply sources which reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (D) Reduce the probability of the release of harmful chemicals into water supply sources, either through natural catastrophe or human error; and
- (E) Provide for natural and engineered methods for managing the stormwater that flushes



contaminants off of impervious surfaces in the watershed areas and that may reach water supply sources unless controlled.

1-3.11. *Flood damage prevention purpose.* The flood damage prevention regulations, adopted and prescribed in section 12-2 of this ordinance, are found by the board of commissioners to be necessary and appropriate in order to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by enactment of provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and all other development which may increase erosion or flood damage; and,
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- (6) Protect human life and health;
- (7) Minimize expenditure of public money for costly flood control projects;
- (8) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (9) Minimize prolonged business losses and interruptions;
- (10) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (11) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (12) Permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community and which will not impede the flow of floodwaters; and
- (13) Ensure that potential homebuyers are notified that property is in a special flood hazard area.

1-3.12. *Airport overlay zoning purpose.* The airport zoning regulations, adopted and prescribed in this



ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Prevent the creation or establishment of obstructions that are a hazard to air navigation;
- (B) Prevent the types of lighting and markings that are a hazard to air navigation;
- (C) Prevent the types of electronic impulses or signals that would interfere with radio communications between aircraft and the Tarboro-Edgecombe County Airport; and
- (D) Restrict the allowable land uses in the immediate vicinity of the approaches and traffic patterns of the Tarboro-Edgecombe County Airport to nonresidential uses that do not involve high population concentrations and that are not significantly impacted by high levels of aircraft noise.

1-3.13. *Transportation corridor overlay purpose.* The transportation corridor overlay regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Preserve and enhance the appearance and operational characteristics of specific interchanges located on major highway corridors in Edgecombe County;
- (B) Address development issues of special concern with specific requirements for land use, access control, building setbacks, and landscaping.

1-3.14. *Towers and telecommunications facilities purpose.* The general purpose of the towers and telecommunications facilities provisions are to regulate the placement, construction, and modifications of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfere with the development of the competitive wireless telecommunications marketplace in Edgecombe County. The Communications Act of 1934, as amended by the Telecommunications Act of 1996 (Public Law No. 104-104), grants the Federal Communications Commission exclusive jurisdiction over (a) the regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities and (b) the regulation of radio signal interference among users of the RF spectrum. The county's regulation of towers and telecommunications facilities in the areas of Edgecombe County located outside the corporate limits and extraterritorial jurisdiction of incorporated cities and towns of the county will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Telecommunications Act of 1996. Specifically, the purposes of towers and telecommunications facilities provisions are:

- (A) To regulate the location of towers and telecommunications facilities in that part of the county which is outside the corporate limits and extraterritorial jurisdiction of the incorporated cities and towns within the county;
- (B) To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
- (C) To minimize adverse visual impact of towers and telecommunications facilities through careful



design, siting, landscaping, and innovative camouflaging techniques;

- (D) To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- (E) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- (F) To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
- (G) To ensure that towers and telecommunications facilities are compatible with surrounding land uses.

1-3.15. *Stormwater management purpose.* The stormwater management regulations, adopted and prescribed in this ordinance [Ord. of 9-13-2004(2)], are found by the board of commissioners to be necessary and appropriate to:

- (A) Protect the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
- (B) Minimize public and private losses due to flood conditions in specific areas by controlling the rate of release of stormwater runoff of certain developments where the rate of runoff has been significantly increased;
- (C) Promote the maintenance and improvement of surface and ground water quality;
- (D) Limit the nitrogen and phosphorus load from new development; and
- (E) Satisfy the requirements imposed upon Edgecombe County under the Tar-Pamlico Stormwater Rule (15A NCAC 2B .0258) and the Edgecombe County Stormwater Management Program for Nutrient Control.

1-3.16. *Tar-Pamlico River Basin Buffer regulation purpose.* The Tar-Pamlico River Basin Riparian Buffer regulations, adopted and prescribed in this ordinance, are found by the board of commissioners to be necessary and appropriate to:

- (A) Protect the existing riparian buffers along intermittent and perennial streams to maintain their nutrient removal functions;
- (B) Protect the riparian buffers to reduce sedimentation and erosion, provide flood control, and provide food and habitat for wildlife;



(C) Protect the riparian buffers to provide protection to public and private properties from the hazards caused by flooding, erosion, and moving streams; and

(D) Ensure that riparian buffers on the site of new developments are protected in accordance with the requirements of the Tar-Pamlico River Basin Riparian Buffer Protection Rule (15A NCAC 2B .0259) and the Edgecombe County Stormwater Management Program for Nutrient Control.

(Ord. of 9-13-2004(2); Ord. of 10-4-2004(1), § 1)

Sec. 1-4. Jurisdiction.

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

All development, including farm, is subject to the flood hazard district overlay requirements, as outlined in section 12-2, unless a valid variance is granted in accordance with section 7-2.2. Specific authority for flood hazard overlay requirements is outlined in section 12-2.1.

(Ord. of 10-4-2004(1), § 1)

Sec. 1-5. Authority.

This ordinance is adopted pursuant to portions of one or more of the following authorities in the NCGS and NCAC: Chapter 63 (Aeronautics); Chapter 69 (Fire Protection); Chapter 74 (Environmental Controls), Chapter 95 (Department of Labor and Labor Regulations), Chapter 106 (Agricultural Regulations), Chapter 113A (Pollution Control and Environment), Chapter 119 (Gasoline and Oil Inspection and Regulations), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), Chapter 136 (Roads and Highways), Chapter 143 (State Departments, Institutions, and Commissions), Chapter 153A (Counties), Chapter 168 (Handicapped Persons), 15A NCAC 2B .0258 (Tar-Pamlico River Basin Stormwater Rule), and 15A NCAC 2B .0259 (Tar-Pamlico River Basin Riparian Buffer Rule). This ordinance may be amended from time to time as required or allowed by subsequent legislature enactments.

(Ord. of 9-13-2004(2))

Sec. 1-6. Abrogation.

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

Sec. 1-7. Compliance.

1-7.1. *Compliance.* No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land development or use shall be commenced, maintained, or modified, except as authorized by this ordinance and other applicable regulations.



1-7.2. *Voluntary compliance.* Nothing in this section shall be deemed to preclude voluntary compliance with the provisions of this ordinance for development approved prior to the effective date of this ordinance. (Ord. of 10-4-2004(1), § 1)

Sec. 1-8. Relationship to the land development plan.

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

Sec. 1-9. Fees.

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be set forth in the county's budget or as established by resolution of the board of commissioners and filed in the offices of the planning department.

(B) Fees established in accordance with subsection (A) [of this section] shall be paid upon submission of a signed application or notice of appeal.

Sec. 1-10. Severability.

1-10.1. *Invalidation.* Should any section, sentence, clause, phrase, or word of this ordinance be held invalid or unconstitutional by a court of competent jurisdiction of either the State of North Carolina or the United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this ordinance which can be given effect without the invalid provision.

1-10.2. *Prejudicial application.* Should any section, sentence, clause, phrase, or word of this ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1-10.3. *Lawful presumption.* There shall be a conclusive presumption when a zoning administrator or board authorizes regulatory action, that such administrator or board would not have authorized such action except in the belief that such action was lawful.

ARTICLE II.

INTERPRETATIONS AND DEFINITIONS

Sec. 2-1. Interpretation of ordinance.



2-1.1. *Minimum requirements.* In the interpretation and application of this ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

2-1.2. *Greater restrictions govern.* These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this ordinance. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, this ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this ordinance are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this ordinance, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

2-1.3. *Rounding of numbers.* All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, except that in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

2-1.4. *Figures and tables.* The figures and tables provided in this ordinance are designed to provide a visual explanation to selected sections of the ordinance. If any illustration appears to be in conflict with the text of the ordinance, the text shall govern.

Sec. 2-2. Rules of construction.

2-2.1. *Word interpretation.* Words not defined in this ordinance shall be given their ordinary and common meaning.

2-2.2. *Rules of construction.* For purposes of this ordinance, the following rules of construction shall apply:

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

Sec. 2-3. Interpretation of district boundaries.



2-3.1. *Boundary interpretation.* Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the following rules shall apply:

- (A) *Centerline:* Where a boundary line lies within and follows a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- (B) *Edge line:* Where a boundary line follows the edge of a road or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such road or alley right-of-way, railroad right-of-way, or utility easement. If such a road or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility easement.
- (C) *Lot line:* Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this ordinance for the district in which said part is located.
- (D) *Municipal limits:* Boundaries indicated as approximately following municipal limits or extraterritorial boundary lines shall be construed as following the municipal limits or extraterritorial boundary lines.
- (E) *County line:* Boundaries indicated as approximately following county lines shall be construed as following the county line.
- (F) *Watercourses:* Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) *Extensions:* Boundaries indicated as parallel to, or as extensions of road or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, municipal limits, county lines, or extraterritorial boundaries, shall be so construed.
- (H) *Scaling:* Where a district boundary does not coincide with any boundary line as delineated above and no distances are described by specific ordinance, the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Flood Hazard Boundary Maps, if available, shall be used for scaling.

2-3.2. *Interpretation by board of adjustment.* Where existing natural or man-made features on the ground are at variance with those shown on the official zoning map, or are not covered by section 2-3.1 (boundary interpretation), the board of adjustment shall interpret the district boundary.



2-3.3. *Annexation.* If any portion of the territory subject to county jurisdiction under this ordinance shall be annexed by a municipality, or taken into a municipality's jurisdiction by act of the General Assembly, or in accordance with G.S. 160A, article 4A or G.S. 160A-360, county regulations and powers or enforcement shall remain in effect until:

- (A) The municipality has adopted regulations for said annexed or extraterritorial area; or
- (B) A period of 60 days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction.

2-3.4. *Extraterritorial jurisdiction.* A municipality that desires to extend its extraterritorial powers into any area for which Edgecombe County is enforcing zoning provisions, subdivision regulations, and the NC Building Code, may do so only when the municipality and Edgecombe County have agreed upon the area within which each will exercise the powers conferred by NCGS 160A-360. When a municipality desires to relinquish jurisdiction over an area that it is regulating under the provisions of NCGS 160A-360, the municipal regulations and powers of enforcement shall remain in effect until:

- (A) Edgecombe County has adopted regulations for the relinquished jurisdiction; or
- (B) A period of 60 days has elapsed following the action by which the municipality relinquished jurisdiction, whichever is sooner. During this period, the county may hold hearings and take other measures that may be required in order to adopt regulations for the relinquished area.

When a municipality is granted extraterritorial powers by Edgecombe County in accordance with G.S. 160A-360, such approval shall be evidenced by a formally adopted resolution of the board of county commissioners. Any such approval can be rescinded upon two year's written notice to the municipality by repealing the resolution. The adopted resolution may be modified at any time by mutual agreement of the board of county commissioners and the municipality.

Sec. 2-4. Definitions.

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

2-4.2. *Accessory building.* A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith. See section 9-5.

2-4.3. *Accessory dwelling unit.* A dwelling unit that exists either as part of a principal dwelling or as an accessory building, and is secondary and incidental to the use of the property as single-family residential.

2-4.4. *Accessory structure.* A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith.

2-4.5. *Address.* The official house, building, or structure number assigned by the county for a specific lot, building or portion thereof.



2-4.6. *Adult bookstore.* See sexually-oriented business definition.

2-4.7. *Adult theater.* See sexually-oriented business definition.

2-4.8. *Aircraft.* Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters, and dirigibles.

2-4.9. *Alley:* A roadway that affords only a secondary means of access to abutting property.

2-4.10. *Antenna array.* One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.

2-4.11. *Antenna support structure.* Any building or structure other than a tower that can be used for location of telecommunications facilities.

2-4.12. *Assembly.* A joining together of completely fabricated parts to create a finished product.

2-4.13. *Athletic field.* Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

2-4.14. *Auto wrecking.* A person or establishment that provides open storage, disassembling, or salvaging for junked motor vehicles.

2-4.15. *Automobile repair services.* An establishment primarily engaged in one or more of the following activities: 1) general automotive repair or service, 2) automotive engine repair, 3) installation or repair of automotive transmissions, 4) installation or repair of automotive glass, 5) installation or repair of automotive exhaust systems, 6) repair of automotive tops, bodies and interiors, and 7) automotive painting and refinishing.

2-4.16. *Basement.* A story of a building or structure having one-half or more of its clear height below grade.

2-4.17. *Best management practices (BMP).* A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

2-4.18. *Block.* The land lying within an area bounded on all sides by roads.

2-4.19. *Board of adjustment.* A quasijudicial body, appointed by the county board of commissioners, that is given certain powers under this ordinance.

2-4.20. *Boarding house.* A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.



2-4.21. *Buffer*. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers. The widths of buffer areas are established pursuant to the requirements of sections 11-3 and 12-7.

2-4.22. *Buffer yard*. A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences in accordance with the provisions of sections 11-3 and 12-7.

2-4.23. *Buildable lot*. One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, water bodies, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.

2-4.24. *Building*. Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a firewall shall be considered a separate building.

2-4.25. *Building height*. The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories does not include basements, except as specifically provided for in this ordinance.

2-4.26. *Building line*. The line, established by this ordinance, beyond which the building shall not extend, except as specifically provided by this ordinance.

2-4.27. *Building separation*. The minimum required horizontal distance between buildings.

2-4.28. *Built-upon area*. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Built-upon area requirements for watershed overlay districts are delineated in sections 12-1.2 (C) and 12-1.3 (C).

2-4.29. *Caliper inches*. Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and 12 inches above the ground for trees over four inches in trunk diameter.

2-4.30. *Canopy tree*. A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.

2-4.31. *Certificate of zoning compliance*. A statement, signed by the zoning administrator, setting forth either that a building or structure complies with the provisions of this ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

2-4.32. *Cluster development*. The grouping of buildings in order to conserve land resources and provide



for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multifamily developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development. General requirements are provided in section 9-4.1 (B) and for watershed overlay districts, section 12-1.5.

2-4.33. *Collector road.* A road whose principal function is to carry traffic between cul-de-sac, local, and subcollector roads, and roads of higher classification, but which may also provide direct access to abutting properties.

2-4.34. *Collocation/site sharing.* Use of a common wireless communication facility or common site with more than one wireless license holder or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

2-4.35. *Combination use.* A use consisting of a combination on one lot of two or more principal uses separately listed in the table of permitted uses. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See section 9-3.4. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

2-4.36. *Common area(s).* All areas, including private roads, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.

2-4.37. *Conditional use permit.* A (i) permit issued by the board of adjustment that authorizes the recipient to make use of property in accordance with the requirements of this ordinance as well as any additional requirements imposed by the board of adjustment or (ii) permit issued, in accordance with the provisions of section 8-7, by the board of commissioners in conjunction with a conditional use district rezoning.

2-4.38. *Condominium.* Portions of real estate that are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

2-4.39. *Congregate care facility.* A facility providing shelter and services for ambulatory individuals whom by reason of age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

2-4.40. *Convenience store.* A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depends upon a large volume of stop and go traffic. Illustrative examples of convenience stores are those operated by the Fast Fare, 7-11, and Pantry chains.

2-4.41. *Corner lot.* A lot abutting two or more roads at their intersection.



2-4.42. *County*. Refers to Edgecombe County, North Carolina.

2-4.43. *County board*. Refers to the Edgecombe County Board of County Commissioners.

2-4.44. *Critical area*. The area adjacent to a water supply intake where risk associated with pollution is greater than for the remaining portions of the watershed. The critical area is defined as extending either (a) one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever comes first or (b) one-half mile upstream from and draining to the intake located directly in the stream or river or the ridge line of the watershed, whichever comes first. Edgecombe County may extend the boundary of the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

2-4.45. *Critical root zone*. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.

2-4.46. *Cul-de-sac road*. A short local road having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

2-4.47. *Day*. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

2-4.48. *Day care center*. A child day care facility as defined in G.S. 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for more than five adults. See section 11-4.29 for specific provisions related to day care centers.

2-4.49. *Developer*. A person engaging in development.

2-4.50. *Development*. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

2-4.51. *Development, density of*. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

2-4.52. *Development plan*. A map indicating the proposed layout of the subdivision or site showing lots, roads, water, sewer, storm drainage, and any other requirements of appendix 1 [of this appendix B], which is presented for construction approval.

2-4.53. *Domestic wastewater discharge*. The discharge of sewage, nonprocess industrial wastewater, other domestic wastewater or any combination of these items. Unless specifically excepted by the NCDWM, domestic wastewater includes liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic



wastewater include once-through, noncontact cooling water; seafood packing facility discharges; and wastewater from restaurants.

2-4.54. *Drainage easement.* An easement that grants the right of water drainage to pass in open channels or enclosed structures.

2-4.55. *Drainageway.* Any natural or manmade channel that carries surface runoff from precipitation.

2-4.56. *Dripline.* A vertical line extending the outermost portion of a tree's canopy to the ground.

2-4.57. *Duplex.* See two-family dwelling.

2-4.58. *Dwelling unit.* One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.

2-4.59. *Easement.* A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

2-4.60. *Emergency shelter.* A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or manmade catastrophe must be designated by the responsible local, state, or federal official, or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

2-4.61. *Engineer.* Any engineer licensed by the State of North Carolina.

2-4.62. *Existing lot (lot of record).* See lot of record.

2-4.63. *Existing development.* Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (A) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (B) Having an outstanding valid building permit as authorized by G.S. 153A-344.1, or
- (C) Having an approved site specific or phased development plan as authorized by G.S. 153A-344.1.

2-4.64. *Extraterritorial planning area.* That portion of a municipal planning jurisdiction that lies outside of the corporate limits of the municipality.

2-4.65. *Family.* One or more persons occupying a dwelling unit and living as a single household.



2-4.66. *Family care home.* A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to G.S. 168-21.

2-4.67. *Fence.* A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

2-4.68. *Flag lot.* A lot, created by a subdivision, with less road frontage than is required by Article IX, and composed of a narrow "flagpole" strip extending from the road and much wider "flag" section lying immediately behind a lot or lots having the required road frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the road to which the flagpole connects shall be considered to be the front lot line for road setback purposes.

2-4.69. *Flood hazard area.* See section 12-2.1 for flood hazard-related definitions.

2-4.70. *Grade, finished.* The final elevation of the ground surface after development.

2-4.71. *Grade, natural.* The elevation of the ground surface in its natural state before manmade alterations.

2-4.72. *Gross floor area.* The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

2-4.73. *Group care facility.* A facility licensed by the State of North Carolina (by whatever name it is called, other than family care home as defined by this ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than thirty people.

2-4.74. *Group development.* A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses, or other enterprises.

2-4.75. *Habitable floor.* Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor.

2-4.76. *Halfway house.* A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. 35-17(30)), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.



2-4.77. *Hazardous waste treatment facility.* A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipments and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilities reuse or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

2-4.78. *Home occupation.* Any use conducted entirely within a dwelling or an accessory building and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Specific regulations concerning home occupations are delineated in section 11-4.41.

2-4.79. *Homeless shelter.* A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; 2) a minimum floor space of 50 square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

2-4.80. *Horse show.* A temporary equestrian activity which is not conducted in conjunction with a riding academy.

2-4.81. *Industrial discharge.* The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (A) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (B) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- (C) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (D) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

2-4.82. *Interior setback.* A setback from any property line not alongside a road.



2-4.83. *Junk/salvage yard.* Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. For purposes of this ordinance, the storage, keeping, or accumulation of more than three junked motor vehicles, manufactured homes, recreational vehicles, boats, and similar vehicles shall constitute a junk/salvage yard.

2-4.84. *Junked motor vehicle.* A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five years old and appears to be worth less than \$100.00; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

2-4.85. *Landfill.* A facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. 130A-9. For the purpose of this ordinance, this term does not include composting facilities.

2-4.86. *Landfill, demolition and construction debris.* A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of waste must be approved by the NC Division of Health Services.

2-4.87. *Landfill, discharging.* A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

2-4.88. *Landfill, sanitary/solid waste.* A site for solid waste disposal from residential, industrial or commercial activities.

2-4.89. *Local road.* A road whose primary function is to provide access to abutting properties.

2-4.90. *Lot.* A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word lot includes plot, parcel, or tract.

2-4.91. *Lot area.* The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

2-4.92. *Lot coverage.* The portion of a lot covered by building(s) and/or structure(s).

2-4.93. *Lot depth.* The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

2-4.94. *Lot line, front.* The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines



shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line).

2-4.95. *Lot of record.* A lot, plot, parcel, or tract recorded in the office of the register of deeds in conformance with the ordinance(s) in effect at the time of recordation.

2-4.96. *Lot width.* The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

2-4.97. *Major thoroughfare road.* Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas.

2-4.98. *Major variance.* A variance from the watershed overlay district requirements that results in any one or more of the following:

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

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

2-4.99. *Manufactured home.* A dwelling unit, designed for use as a permanent residence, that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

2-4.100. *Manufactured home, class A.* A dwelling unit that: (i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and (ii) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and (iii) meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development, and (iv) conforms to the following appearance criteria:

- (A) The manufactured home has a minimum width, as assembled on the site, of twenty feet;
- (B) The pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
- (C) A continuous, permanent masonry curtain wall, unpierced except for required ventilation and



access, is installed under the manufactured home; and

- (D) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

2-4.101. *Manufactured home, class B.* A manufactured home constructed after July 1, 1996, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a class A manufactured home but meets the following standards: (A) skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and (B) stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.

2-4.102. *Manufactured home, class C.* Any manufactured home that does not meet the definitional criteria of a class A or class B manufactured home but meets the following standards: (A) skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and (B) stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground. Manufactured homes that do not meet the definitional criteria of class A, B, or C manufactured homes are classified as recreational vehicles.

2-4.103. *Manufactured home park.* A residential use in which five or more class A, B, or class C manufactured homes are located on a single lot or tract. Where less than five class A, B, or C manufactured homes are located on a lot or tract, any attempt to increase the number of manufactured homes to a total of five or more on said lot or tract shall constitute a manufactured home park and require compliance with all of the specific provisions related to manufactured home parks set forth in section 11-4.49 of this ordinance.

2-4.104. *Manufactured home space.* A designated area of land within a manufactured home park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this ordinance.

2-4.105. *Marquee.* Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

2-4.106. *Minor thoroughfare road.* Minor thoroughfares collect traffic from collector, subcollector, and local roads and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

2-4.107. *Minor variance.* A variance from the watershed overlay district requirements that results in a relaxation, by a factor of up to five percent, of any buffer, density or built-upon area requirements delineated in



section 12-1.12 or that results in a relaxation, by a factor of up to ten percent, of any management requirement in sections 12-1.2, 12-1.3, 12-1.4, 12-1.7, 12-1.8 and 12-1.11.

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

2-4.108. *Modular home*. A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the NC State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

2-4.109. *Multifamily dwelling*. A building or portion thereof used or designed as a residence for three or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartments, townhouses and condominiums.

2-4.110. *Multitenant building*. A building that is used for two or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.

2-4.111. *Nonprocess discharge*. Industrial effluent not directly resulting from the manufacturing process. An example would be noncontact cooling water from a compressor.

2-4.112. *Nonconforming*. A lot, structure, sign, or use of land, which is now prohibited under the terms of this ordinance, but was lawful at the date of this ordinance's enactment, or any amendment or revision thereto.

2-4.113. *Nonconforming lot(s)*. A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this ordinance or any subsequent amendment.

2-4.114. *Nonconforming project*. Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

2-4.115. *Nonconforming situation*. A situation that occurs when, on the effective date of this ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, because signs do not meet the requirements of this ordinance (section 11.1), or because land or buildings are used for purposes made unlawful by this ordinance.

2-4.116. *Nonconforming structure(s)*. A structure that does not conform to the requirements of this



ordinance. The nonconformity may result from adoption of this ordinance or any subsequent amendment.

2-4.117. *Nonconforming use.* A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this ordinance or any subsequent amendment.

2-4.118. *Nonconformity, dimensional.* A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

2-4.119. *Nursing home.* An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

2-4.120. *Outdoor religious event.* An activity of a religious organization that is conducted outdoors as a free-standing use and is not an accessory use to a principal use such a church or other place of worship. An example of an outdoor religious event would be a tent revival.

2-4.121. *Owner.* A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

2-4.122. *Pedestrian way.* A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.

2-4.123. *Permit-issuing authority/board.* The person or board authorized by this ordinance to issue a permit in accordance with the requirements of this ordinance. The term applies to the zoning administrator when issuing a zoning or sign permit and to the board of adjustment when issuing a conditional use permit.

2-4.124. *Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body or other legal entity.

2-4.125. *Planned unit development (PUD).* An area of land under unified ownership or control to be developed and improved as a single entity under a unified development plan in accordance with and subject to the requirements of this ordinance.

2-4.126. *Planning department.* The Department of Planning and Inspections of Edgecombe County.

2-4.127. *Plat.* A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

2-4.128. *Plat, final.* The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, roads, easements and any other requirements of appendix 1 [of this appendix B], which is presented for county approval and subsequent recordation in the Edgecombe County Register of Deeds Office.



2-4.129. *Plat, preliminary.* See development plan.

2-4.130. *Principal building.* A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling in compliance with section 11-4.3 (Accessory dwelling units on single-family lots); farm tenant dwelling; or a residence for a pastor; or caretaker dwelling accessory to a nonresidential use (limited to one such residence per lot).

2-4.131. *Principal dwelling.* Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

2-4.132. *Principal structure.* A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

2-4.133. *Private dormitory.* A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.

2-4.134. *Private drive.* A vehicular travelway not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.

2-4.135. *Private sewer.* A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

2-4.136. *Private road.* A vehicular travelway not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system. Private roads must comply with the requirements of section 10-7.3 (G).

2-4.137. *Private water.* A system that provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

2-4.138. *Protected area.* The area adjoining and upstream of the watershed critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

2-4.139. *Public sewer.* A system which provides for the collection and treatment of sanitary sewage from more than one property, and is owned and operated by a government organization or sanitary district.

2-4.140. *Public road.* A dedicated public right-of-way for vehicular traffic which 1) has been accepted by NCDOT for maintenance; or 2) is not yet accepted but in which the roadway design and construction have



been approved under public standards for vehicular traffic. Alleys are specifically excluded.

2-4.141. *Public water.* A system that provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.

2-4.142. *Rear setback.* A setback from an interior property line lying on the opposite side of the lot from the front road setback.

2-4.143. *Recreational vehicle.* A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

2-4.144. *Recreational vehicle park.* Any site or tract of land, of contiguous ownership, upon which 15 or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this ordinance.

2-4.145. *Recreational vehicle space.* A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this ordinance.

2-4.146. *Reservation.* An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is neither a dedication nor a conveyance.

2-4.147. *Residuals.* Any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the environmental management commission.

2-4.148. *Retaining wall.* A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

2-4.149. *Reverse frontage lot.* A through lot which is not accessible from one of the parallel or nonintersecting roads upon which it fronts.

2-4.150. *Riding academy.* A commercial facility or school which is open to the general public and offers such activities as riding lessons, horse training, and boarding of horses. For purposes of this ordinance, riding academy does not include the keeping of horses for personal use.

2-4.151. *Road right-of-way.* A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

2-4.152. *Road setback.* Any setback from a street, road, or lane.

2-4.153. *Roof line.* The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.



2-4.154. *Rooming unit.* A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.

2-4.155. *Rural family occupation.* A nonresidential use allowed by conditional use permit as an accessory use to a residential use in certain designated residential zoning districts. Rural family occupations must comply with the requirements of section 11-4.71.

2-4.156. *Salvage yard, auto parts.* Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts therefrom.

2-4.157. *Salvage yard, scrap processing.* Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

2-4.158. *Seating capacity.* The actual seating capacity of an area based upon the number of seats, or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

2-4.159. *Setback.* The minimum required horizontal distance between a structure or activity and the property line or the road right-of-way line.

2-4.160. *Sexually-oriented business.* An adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter studio, or any combination of the foregoing. As used in this ordinance, the following definitions shall apply:

- (1) *Adult arcade (also know as "peep show").* Any place to which the public is permitted or invited, wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.
- (2) *Adult bookstore or adult video store.* A commercial establishment which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities and/or specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.



- (3) *Adult cabaret.* A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:
 - a. Persons who appear nude or seminude; or
 - b. Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or
 - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.
- (4) *Adult massage parlor.* A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- (5) *Adult motel.* A hotel, motel, or similar commercial establishment that:
 - a. Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; or
 - b. Offers a sleeping room for rent for a period of time that is less than ten hours; or
 - c. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.
- (6) *Adult motion picture theater.* A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities and/or specified anatomical areas.
- (7) *Adult theater.* A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or seminude, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.
- (8) *Escort.* A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a



striptease for another person.

- (9) *Escort agency.* A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or any other form of consideration.
- (10) *Nude model studio.* Any place where a person who appears nude or seminude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
 - a. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
 - b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - c. Where no more than one nude or seminude model is on the premises at any one time.
- (11) *Nude or a state of nudity.* The appearance of a human anus, male genitals, or female genitals; or a state of dress that fails to opaquely cover a human anus, male genitals, or female genitals.
- (12) *Seminude.* A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- (13) *Sexual encounter center.* A business or commercial enterprise that, as of one of its principal business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.
- (14) *Specified anatomical areas.* Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (15) *Specified sexual activities.* Includes any of the following:
 - a. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
 - b. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or



- c. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- d. Masturbation, actual or simulated; or
- e. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
- f. Erotic or lewd touching, fondling, or other contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.

2-4.161. *Shopping center*. A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas.

2-4.162. *Side setback*. Any interior property line setback other than a rear setback.

2-4.163. *Sight distance easement*. An easement that grants to the entity responsible for road maintenance the right to maintain unobstructed view across property located at a road intersection.

2-4.164. *Sign*. See section 11-1.1 for sign-related definitions.

2-4.165. *Sign permit*. A zoning permit issued by the zoning administrator that authorizes the location of a sign.

2-4.166. *Single-family detached dwelling*. A separate, detached building designed for and occupied exclusively by one family.

2-4.167. *Sketch plan*. A rough sketch of a proposed subdivision or site, showing roads, lots, and any other information of sufficient accuracy to be used for discussion of the road system and the proposed development pattern.

2-4.168. *Special promotion*. An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.

2-4.169. *Special use permit*. A permit issued by the board of commissioners that authorizes the recipient to make use of property in accordance with the requirements of this ordinance or as well as any additional requirements imposed by the board of commissioners.

2-4.170. *Stabilizing vegetation*. Any vegetation that protects the soil against erosion.

2-4.171. *Stealth*. Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas



integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

2-4.172. *Storm drainage facilities.* The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

2-4.173. *Stormwater runoff.* The direct runoff of water resulting from precipitation in any form.

2-4.174. *Structure.* Anything constructed, erected, or placed.

2-4.175. *Subcollector road.* A road whose principal function is to provide access to abutting properties, but which is also designed to be used or is used to connect local roads with collector or higher classification roads.

2-4.176. *Subdivider.* Any person who subdivides land.

2-4.177. *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 includes all division of land involving the dedication of a new road or a change in existing roads; however, the following are not included within this definition and are not subject to any subdivision approval regulations in this ordinance:

- (A) The combination or recombination of a portion of previously subdivided and recorded lots if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this ordinance;
- (B) The division of land into parcels greater than ten acres if no road right-of-way dedication is involved;
- (C) The public acquisition by purchase of strips of land for the widening or opening of roads; and
- (D) The division of a tract in single ownership, the entire area of which is not greater than two acres into not more than three lots, if no road right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of this ordinance.
- (E) The division of land for use as gravesites.

Plats deemed to be an exception to the provisions of this ordinance may be recorded provided the owner desiring to record such plats shall obtain a certificate of exception (see appendix 2 [of this appendix B]) from the planning director and shall present such certificate to the Edgecombe County Register of Deeds as proof that the exception condition is present.

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



2-4.178. *Subdivision, major.* A subdivision involving five or more lots or requiring a new public or private road(s) for access to interior property, or requiring extension of a public sewer or water line, or requiring a waiver or variance from any requirement of this ordinance.

2-4.179. *Subdivision, minor.* A subdivision involving four or less lots fronting on an existing approved public road(s), not requiring any new public or private road(s) for access to interior property, not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this ordinance.

2-4.180. *Swimming pool.* A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches designed, used, and maintained for swimming and bathing.

2-4.181. *Swine farm.* Any tract or contiguous tracts of land which is devoted to raising animals of the porcine species and which is served by an animal waste management system having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater, regardless of the actual number of swine on the farm.

2-4.182. *Telecommunications facilities.* Any cables, wires, lines wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (A) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (B) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

2-4.183. *Temporary building.* Any building of an impermanent nature, or one which is designed for use for a limited time, including any tent or canopy.

2-4.184. *Temporary emergency, construction, or repair residence.* A residence (which may be a manufactured home) that is: (i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. (See section 11-4.83 for specific standards related to such residences.)

2-4.185. *Temporary hardship manufactured home.* A temporary hardship manufactured home on the same lot as a principal dwelling. Such temporary residence is intended for short-term occupancy by a person or persons receiving care and/or supervision by a related person or persons occupying the principal dwelling. (See section 11-4.84 for specific standards related to temporary hardship manufactured homes.)



2-4.186. *Temporary event.* An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization that is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horse shows, outdoor religious events and other similar activities.

2-4.187. *Temporary shelter.* A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building of and operated by a government agency or nonprofit organization; 2) a minimum floor space of 50 square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

2-4.188. *Temporary structure.* Any structure of an impermanent nature or one that is designed for use for a limited time, including any tent or canopy.

2-4.189. *Ten-Year storm.* The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

2-4.190. *Tenant.* Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.

2-4.191. *Thoroughfare plan.* A plan adopted by the county board of commissioners for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

2-4.192. *Through lot.* A lot abutting two roads that do not intersect at the corner of the lot.

2-4.193. *Tourist home.* A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee.

2-4.194. *Tower.* A self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.

2-4.195. *Tower, lattice.* A guyed or self-supporting multisided, open, steel frame structure used to support communications equipment.

2-4.196. *Tower, monopole.* A structure composed of a single spire used to support communications equipment.

2-4.197. *Tower, telecommunications.* See definition of tower.

2-4.198. *Townhouse dwelling.* A building consisting of single-family residences attached to one another in which each unit is located on an individually-owned parcel, generally within a development containing



drives, walks and open space in common area.

2-4.199. *Townhouse lot*. A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

2-4.200. *Toxic substance*. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

2-4.201. *Tract*. All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

2-4.202. *Two-family dwelling*. A building on one lot arranged and designed to be occupied by two families living independently of each other.

2-4.203. *Understory tree*. A species of tree which normally grows to a mature height of 15 to 35 feet in height.

2-4.204. *Use*. The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

2-4.205. *Use(s), accessory*. A structure or use that: 1) is clearly incidental to and customarily found in connection with a principal building or principal use; 2) is subordinate to and serves a principal building or principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and 5) is located on the same lot as the principal building or principal use served.

2-4.206. *Use, mixed*. Occupancy of a building or land by more than one use.

2-4.207. *Use(s), principal*. The primary purpose or function that a lot or structure serves or is proposed to serve.

2-4.208. *Utility easement*. An easement which grants to the board of commissioners or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

2-4.209. *Variance*. Official permission from the board of adjustment to depart from the requirements of this ordinance.

2-4.210. *Velocity*. The average velocity of flow through the cross section of the main channel at the peak



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

2-4.211. *Waiver*. Official permission from a designated permit-issuing authority, other than the board of adjustment, to depart from specified requirements of this ordinance.

2-4.212. *Water-dependent structure*. Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

2-4.213. *Watershed*. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake). For purposes of the water supply protection regulations contained herein, major landmarks such as highways or property lines may be utilized by Edgecombe County to delineate the outer boundary of the drainage area if these landmarks are immediately adjacent to the ridge line.

2-4.214. *Wet detention pond*. A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

2-4.215. *Zero side setback*. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses.

2-4.216. *Zone lot*. One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and access to permit construction thereon of a principal building together with its required parking and buffer yards.

2-4.217. *Zoning administrator*. The person(s) authorized by section 3-3 who is responsible for administering and enforcing this ordinance.

2-4.218. *Zoning district*. An area defined by this ordinance and delineated on the official zoning map, in which the requirements for the use of land and in which building and development standards are prescribed.

2-4.219. *Zoning permit*. A permit issued by the zoning administrator that authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

2-4.220. *Zoning vested right*. A right established pursuant to G.S. 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan (See section 4-15).

2-4.221. *Business, accessory to residence*. A dwelling unit primarily used as a residence, with a business as a part of the use.

2-4.222. *Residence, accessory to business*. Dwelling unit(s) located within business establishment.
(Ord. of 6-5-2006(1), § 1)



ARTICLE III.

ADMINISTRATIVE MECHANISMS

Sec. 3-1. Planning board.

3-1.1. *Authority.* There is hereby created a planning agency, pursuant to G.S. 153A-321, to be known as the Edgecombe County Planning Board and referred to herein as the planning board.

3-1.2. *Appointment and terms of planning board members.*

- (A) There shall be a planning board consisting of any size or composition considered appropriate (but not less than three members), appointed by the Edgecombe County Board of Commissioners, all members shall reside within Edgecombe County.
- (B) Planning board members shall be appointed for five-year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies may be filled by the board of commissioners for the unexpired terms.
- (C) Members may be appointed to no more than three successive terms.
- (D) Planning board members may be removed by the board of commissioners at any time for failure to attend two consecutive meetings or for failure to attend 30 percent or more of the meetings within any 12-month period or for any other good cause related to performance of duties. Attendance at a meeting is defined as being present for at least 60 percent of the duration of the meeting.
- (E) If a member moves outside of the county, that shall constitute a resignation from the planning board, effective upon the date a replacement is appointed by the board of commissioners.
- (F) The board of commissioners may provide for payment of any reasonable compensation for members of the planning board for reimbursement of their expenses incurred in connection with their official duties.

3-1.3. *(Reserved).*

3-1.4. *(Reserved).*

3-1.5. *(Reserved).*

3-1.6. *Powers and duties of planning board.*

- (A) The planning board may:



- (1) Make studies and recommend to the board of commissioners plans, goals and objectives relating to the growth, development and redevelopment of the county planning jurisdiction.
 - (2) Develop and recommend to the board of commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
 - (3) Make recommendations to the board of commissioners concerning proposed special use permits and proposed zoning text and map changes, as provided by sections 4-7.4 and 8-3.
 - (4) Hear and decide requests for development plan approval in accordance with section 10-3.3(D).
 - (5) Perform any other duties assigned by the board of commissioners.
- (B) The planning board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

3-1.7. Advisory committees.

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

Sec. 3-2. Board of adjustment.

3-2.1. *Authority.* There is hereby created a board of adjustment pursuant to G.S. 153A-345, to be known as the Edgecombe County Board of Adjustment and referred to herein as the board of adjustment.

3-2.2. Appointment and terms of board of adjustment.

- (A) There shall be a board of adjustment consisting of five regular members and two alternates appointed by the Edgecombe County Board of Commissioners. All members shall reside within Edgecombe County.



- (B) The board of adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms.
- (C) Members may be reappointed to no more than three successive terms.
- (D) Regular board of adjustment members may be removed by the board of commissioners at any time for failure to attend three consecutive meetings or for failure to attend 50 percent or more of the meetings within any 12-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures.
- (E) If a regular or alternate member moves outside of the county, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.
- (F) An alternate member may sit in lieu of a regular member. When so seated, alternates shall have the same powers and duties as regular members.

3-2.3. *Meetings of the board of adjustment.*

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

3-2.4. *Quorum.*

- (A) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- (B) A member who has withdrawn from the meeting without being excused as provided in section 3-2.5 shall be counted as present for purposes of determining whether a quorum is present.

3-2.5. *Voting.*

- (A) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance (including the issuance of a conditional use permit) or to grant any variance. All other actions of the board shall be taken by majority vote, a quorum being present.



- (B) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (C) or has been allowed to withdraw from the meeting in accordance with subsection (D).
- (C) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (1) If the member has a direct financial interest in the outcome of the matter at issue; or
 - (2) If the matter at issue involves the member's own official conduct; or
 - (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
 - (4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
- (D) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (E) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (F) A roll call vote shall be taken for each motion.

3-2.6. *Board of adjustment officers.*

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



3-2.7. Powers and duties of board of adjustment.

- (A) The board of adjustment shall hear and decide:
 - (1) Appeals from any order, decision, requirement, or interpretation made by the zoning administrator, as provided in section 7-1.
 - (2) Applications for conditional use permits, as provided in section 4-7.7.
 - (3) Applications for general variances, as provided in section 7-2 and applications for variances from watershed district overlay requirements as provided in section 7-2.3.
 - (4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in section 2-3.2.
 - (5) Any other matter the board is required to act upon by any other county ordinance.
- (B) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

Sec. 3-3. Zoning administrator.

3-3.1. *Establishment.* Except as otherwise specifically provided, primary responsibility for administering and enforcing this ordinance may be assigned to one or more individuals by the county manager. The person or persons to whom these functions are assigned shall be referred to in this ordinance as the "zoning administrator." The terms "staff" and "administrator" are sometimes used interchangeably with the term "zoning administrator".

3-3.2. *Duties of the zoning administrator.* The zoning administrator shall:

- (A) Establish and publish application procedures for permits, appeals, and actions pursuant to this ordinance and forms implementing the same;
- (B) Issue permits and certificates pursuant to this ordinance;
- (C) Review all development plans and permits to assure that the permit requirements of this ordinance have been satisfied;
- (D) Interpret the applicability of the provisions of this ordinance in matters where the text does not clearly provide guidance;
- (E) Maintain all records pertaining to the provisions of this ordinance in his office(s) and make said records open for public inspection;
- (F) Periodically inspect properties and activities for which permits have been issued to determine



whether the use(s) is being conducted in accordance with the provisions of this ordinance;

- (G) Cause to be investigated violations of this ordinance;
- (H) Enforce the provisions of this ordinance;
- (I) Issue notice of corrective action(s) when required;
- (J) Use the remedies provided in this ordinance to gain compliance;
- (K) Be authorized to gather evidence in support of said activities;
- (L) Receive appeals and forward cases to the appropriate board;
- (M) Perform the specific flood damage prevention duties delineated in section 12-2.7; and
- (N) Perform other duties as may be assigned by the board of commissioners.

Sec. 3-4. Planning director.

3-4.1. *Establishment and duties.* The planning director is the administrative head of the planning department. As provided in article X, the planning director is authorized to approve minor subdivision final plats, sketch plans for major subdivisions, final plats of major subdivision, and to perform other duties as authorized by this ordinance.

Sec. 3-5. Board of commissioners.

3-5.1. Duties of the board of commissioners.

- (A) The board of commissioners, in considering special use permit applications, acts in a quasijudicial capacity and, accordingly, is required to observe the procedural requirements set forth in section 4-7 of this ordinance. In considering amendments to this ordinance or the zoning map, the board of commissioners shall follow the regular, voting, and other requirements as set forth in other provisions of general law.
- (B) In considering proposed changes in the text of this ordinance or in the zoning map, the board of commissioners acts in its legislative capacity and must proceed in accordance with the requirements of article VIII.
- (C) The board of commissioners, in considering the approval of a site specific development plan (as defined in section 4-15, vested rights), shall follow the procedural requirements set forth in section 4-7 of this ordinance for the issuance of a conditional use permit.

Sec. 3-6. Technical review committee.



3-6.1. *Establishment.* There is hereby created a technical advisory committee known as the technical review committee (TRC) consisting of the planning director and representatives of the following agencies as designated by the director of each agency: The Edgecombe County Health Department; the soil conservation service; the NC Department of Transportation; Division of Highways; and the public water and/or sewer utility provider serving the development being reviewed. Depending upon the specific aspects of a development proposal, additional members of the TRC may include representatives, as designated by the director of each agency, of the following agencies: the Edgecombe County School Board and the Tarboro-Edgecombe County Airport Authority.

3-6.2. *Duties of the technical review committee.* The TRC shall have the following duties:

- (A) To review and comment on the technical aspects of all applications for approval of subdivision plats, major subdivision sketch plans, major site plans, and master development plans.
- (B) To provide the planning director, for transmission to the planning board, board of commissioners, or board of adjustment and other appropriate boards and agencies, with reports and recommendations regarding requests for approval before such bodies.
- (C) To perform any other related duties that this ordinance may authorize or that the board of commissioners may direct.

3-6.3. *Officers.* The planning director or his designee shall serve as the chairman of the TRC. The TRC shall appoint a secretary.

3-6.4. *Meetings.*

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

ARTICLE IV.

PERMITS AND PROCEDURES

Sec. 4-1. Permit required.

(A) No person shall undertake any development activity subject to this ordinance except in accordance with and pursuant to one of the following permits:

- (1) A zoning permit or sign permit issued by the zoning administrator;
- (2) A conditional use permit issued by the board of adjustment; or



(3) A special use permit issued by the board of commissioners.

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

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

Sec. 4-2. Permit exemptions.

4-2.1. *Zoning permit exemptions.* The following are exempt from zoning permit requirements:

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

All structures, including farm buildings and accessory buildings with a dimension of 12 feet or less, are subject to the flood hazard district overlay requirements, and shall obtain a floodplain development permit, as required by section 12-2.6, prior to any development.

4-2.2. *Sign permit exemptions.* No sign permit shall be required for signs specifically exempted by section 11-1.3.

(Ord. of 10-4-2004(1), § 2)

Sec. 4-3. Permit applications and plans.

4-3.1. *General requirements.*

- (A) **Submission.** Unless otherwise specified, all applications for permits under this ordinance shall be submitted by the owner of the property or the authorized agent of such owner to the zoning administrator. The zoning administrator may require reasonable proof of agency from any person submitting an application as an agent.
- (B) **Form of submission.** An application for any permit under this ordinance shall be submitted in such form, number of copies and format as required by appendices 1 and 3, together with such fees as required.



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

4-3.2. *Site plan and plot plan procedures.*

- (A) *Applicability.*
 - (1) *Plot plan required.* No zoning permit for a single-family or two-family dwelling on a single lot shall be issued until a plot plan, prepared in accordance with appendix 1 [of this appendix B], has been approved.
 - (2) *Site plan required.* No other zoning, special use, or conditional use permit shall be issued on a lot until a site plan, prepared in accordance with appendix 1 [of this appendix B], has been approved for the development. No new nor amended site plan shall be required if an adequate site plan is already on file, there is no change in the parking requirements, or



there is no increase in impervious surface area.

- (B) *[Waiver.]* The zoning administrator may waive the requirement for a site plan if, in his judgment, it is determined that it is not necessary to complete the review of the permit application.
- (1) *Timing.* Site plans shall be submitted to the zoning administrator in conjunction with a permit application.
 - (2) *Site plan compliance.* Site plans shall contain all applicable information listed in appendix 1 [of this appendix B]. A site layout meeting the requirements of article [section] 10-3.3(C) of this ordinance may also serve as the development plan.
- (C) *Coordination with other procedures.* To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with building plan review or other applications for approvals required for the particular project.
- (D) *Site plan and plot plan approval.*
- (1) *Approval of site/plot plan.* The site plan or plot plan shall be approved when it meets all requirements of this ordinance or proper waivers and/or variances are obtained.
 - (2) *Approval authority.*
 - (a) Site plans or plot plans submitted with zoning permit applications shall be approved by the zoning administrator.
 - (b) Site plans submitted with conditional use permit applications shall be approved by the board of adjustment.
 - (c) Site plans submitted with special use permit applications shall be approved by the board of commissioners.
 - (3) *Conditional approvals.* If the site plan is granted conditional approval, the applicant shall revise and resubmit the site plan. The zoning administrator shall review the revised site plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the site plan is not revised within 60 days to meet the approval conditions, or the applicant notifies the zoning administrator that he is unwilling to revise the site plan, it shall be deemed denied.
- (E) *Road and utility construction.*
- (1) *Plans.* When required, road and utility construction plans for all public or private roads, and water, sanitary sewer, and storm sewer facilities shall be submitted to the applicable authority following conditional approval or approval of the site plan. For each phase of the site plan, road and utility construction plans shall include all improvements lying



within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

- (2) *No construction without plan approval.* None of the improvements listed above shall be constructed until the road and utility construction plans for such improvements have been reviewed and approved by the applicable authority.
 - (3) *Inspections.* Work performed pursuant to approved road and utility construction plans shall be inspected and approved by the appropriate authority.
- (F) *Detention ponds and soil erosion and sedimentation control devices installation.* Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of road and utility construction plans.

Sec. 4-4. Permit issuance.

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

Sec. 4-5. Inspections and investigations.

4-5.1. *Periodic inspections.* The zoning administrator shall have the right, upon presentation of proper credentials, or inspection warrant, if necessary, to enter on any premises within the planning jurisdiction of Edgecombe County at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

4-5.2. *Investigations.* The zoning administrator shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this ordinance.

4-5.3. *Written statements.* The board of commissioners or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this ordinance.

Sec. 4-6. Zoning and sign permits.

(A) Requests for a zoning or sign permit shall be submitted to the zoning administrator by filing an application form with the zoning administrator. Applications for a zoning or sign permit may be a separate form or may be combined with the county's building permit application form. In those instances in which the county is administering building inspection services within a municipality's zoning jurisdiction, the applicant shall



provide a copy of a zoning permit from the applicable municipality prior to obtaining a building permit.

(B) The zoning administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant, that:

- (1) The requested permit is not within his authority according to the table of permissible uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance.

(C) The zoning administrator shall issue the sign permit unless he finds after reviewing the application and consulting with the applicant that:

- (1) The requested permit is not in compliance with the requirements of section 11-1, signs; or
- (2) The application is incomplete.

(D) A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within special flood hazard areas as required by section 12-2.6.
(Ord. of 10-4-2004(1), § 2)

Sec. 4-7. Conditional use permits and special use permits.

4-7.1. *Conditional use permit review process.* An application for a conditional use permit shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator in the planning department 20 working days prior to the board of adjustment meeting at which the request will be reviewed. The review process for a conditional use permit shall include:

- (A) Planning department review and recommendation in accordance with section 4-7.3;
- (B) Public hearing held by the board of adjustment; and
- (C) Board of adjustment review and action.

4-7.2. *Special use permit review process.* An application for a special use permit shall be submitted to the board of commissioners by filing a copy of the application with the zoning administrator 20 days prior to the board of commissioners meeting at which the request will be reviewed. The review process for a special use permit shall include:

- (A) Planning department review and recommendation pursuant to section 4-7.4;
- (B) Public hearing held by the board of commissioners; and



- (C) Board of commissioners review and action.

If the board of commissioners refuses to schedule a public hearing, the application is summarily denied. If the board of commissioners agrees to schedule a public hearing, the public notice required for the hearing shall be in accordance with section 4-7.5.

4-7.3. Recommendations on conditional use permit applications.

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

4-7.4. Recommendations on special use permits.

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

4-7.5. Public hearing requirements and procedures.

- (A) No conditional use nor special use permit shall be approved until a public hearing has been held by the permit-issuing board.
- (B) The clerk to the board shall publish a notice of the public hearing in a newspaper having general circulation in the area. The notice shall be published not less than ten days before the date affixed



for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be. The notice required by this section shall:

- (1) State the date, time, and place of the public hearing;
 - (2) Summarize the nature and character of the permit request;
 - (3) Reasonably identify the property affected by the permit request;
 - (4) State that the full permit request application can be reviewed at the office of the zoning administrator; and
 - (5) State that substantial changes in the permit request may be made following the public hearing.
- (C) The zoning administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request.
- (D) The zoning administrator may also post notices of the public hearing in the vicinity of the property involved in the permit request and take any other action deemed by the zoning administrator to be useful or appropriate to give notice of the public hearing on any permit request.
- (E) The zoning administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the permit-issuing board's intention that no failure to comply with any of the notice provisions [except those set forth in subsection (B)] shall render any permit request invalid.
- (F) At the conclusion of the public hearing, the permit-issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Section 4-7.6 delineates specific actions that the board of commissioners must take on requests for special use permits and section 4-7.7, that the board of adjustment must take on requests for conditional use permits.
- (G) The permit-issuing board is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.
- (H) Subject to subsection (i), the board of adjustment or the board of commissioners, respectively, shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:
- (1) The requested permit is not within its jurisdiction according to the table of Permissible Uses; or



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

4-7.6. Board of commissioners action on special use permits.

- (A) Upon receipt of a recommendation from the planning department, the board of commissioners shall review the application for a special use permit and shall hold a public hearing on the application. Public notice of the public hearing shall be in accordance with the provisions of section 4-7.5. The board of commissioners, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements of the board of adjustment except that no vote greater than a majority vote shall be required for the board of commissioners to issue a special use permit.
- (B) Following the public hearing, the board of commissioners may proceed to vote on the permit request, refer it to committee for further study, or take any other action consistent with its usual rules of procedure.
- (C) In considering whether to approve an application for a special use permit, the board of commissioners shall proceed according to the following format:
 - (1) The board of commissioners shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the



application is incomplete) then this shall be taken as an affirmative finding by the board of commissioners that the application is complete.

- (2) The board of commissioners shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes, the board of commissioners need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application.
- (3) If the board of commissioners concludes that the application fails to comply with one or more requirements of this ordinance, the application shall be denied. If the board of commissioners concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

4-7.7. *Board of adjustment action on conditional use permits.* In considering whether to approve an application for a conditional use permit, the board of adjustment shall proceed in the same manner as the board of commissioners when considering special use permit applications (section 4-7.6) except that the format of the board of adjustment's proceedings will differ as a result of the four-fifths voting requirement set forth in section 3-2.5(A).

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

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



ordinance, the application shall be denied.

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

4-7.8. Additional requirements on special use and conditional use permits.

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

Sec. 4-8. Authorizing use or occupancy before completion of development under zoning, special use or conditional use permits.

- (A) In cases when, because of weather conditions or other factors beyond the control of the zoning, special use, or conditional use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this ordinance before commencing the



intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient provides an adequately secured performance bond or other security satisfactory to the permit-issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months). The proposed performance bond and security shall be reviewed and approved by the Edgecombe County Attorney, however, prior to the permit-issuing authority authorizing the intended use or occupancy.

(B) When the permit-issuing board imposes additional requirements upon the special use or conditional use permit recipient in accordance with section 4-7.8 or when the developer proposes in the plans submitted to install amenities beyond those required by this ordinance, the permit-issuing board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (1) A performance bond and security satisfactory to the county attorney is furnished;
- (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
- (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by section 5-4 and section 5-6.

Sec. 4-9. Completing developments in phases.

(A) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (C), the provisions of section 4-4 and section 4-8 shall apply to each phase as if it were the entire development.

(B) As a prerequisite to taking advantage of the provisions of subsection (A), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this ordinance that will be satisfied with respect to each phase or stage.

(C) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:

- (1) If the improvement is one required by this ordinance then the developer may utilize the provisions of section 4-8(A); or



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

Sec. 4-10. Expiration of permits.

(A) Except as provided in subsection (F), zoning, special use, conditional use, and sign permits (including approved site or plot plans) shall expire automatically if, within six months after the issuance of such permits:

- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
- (2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see section 4-9), this requirement shall apply only to the first phase.

(B) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the zoning, special use, conditional use, or sign permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 4-11.

(C) The permit-issuing authority may extend for a period up to six months the date when a zoning, special use, conditional use, or sign permit would otherwise expire pursuant to subsections (A) or (B) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(D) For purposes of this section, the permit within the jurisdiction of the board of adjustment or the board of commissioners is issued when such board votes to approve the application and issue the permit. A zoning or sign permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place:

- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is delivered to the permit applicant; or
- (2) The zoning administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded, if required under section 4-11(B).

(E) Notwithstanding any of the provisions of article VI (nonconforming situations), this section shall



be applicable to permits issued prior to the date this section becomes effective.

(F) Special use permits with a vested right established in accordance with section 4-15, zoning vested rights, shall expire at the end of the two-year vesting period established pursuant to section 4-15.

Sec. 4-11. Effect of permit on successors and assigns.

(A) Zoning, special use, conditional use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
- (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.

(B) Whenever the recording of a special use or conditional use permit is required by the board of commissioners or board of adjustment as a condition of approval, nothing authorized by the permit may be done until the record owner of the property provides documentation that indicates that the permit has been recorded in the Edgecombe County Registry and indexed under the record owner's name as grantor.

Sec. 4-12. Amendments to and modifications of permits.

(A) Insignificant deviations from the permit (including approved site plans and development plans) approved by the board of commissioners, the board of adjustment, or the zoning administrator are permissible and the zoning administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(B) Minor design modifications or changes in permits (including approved site plans and development plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(C) All other requests for changes in approved site plans and development plans will be processed as a modification to the original application. If such requests are to be acted upon by the board of commissioners or board of adjustment, new conditions may be imposed only on the specific site or area requested to be modified in accordance with section 4-7.8, but the applicant retains the right to reject such additional conditions



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

(D) The zoning administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (A), (B), and (C).

(E) A developer requesting approval of changes shall submit a written request for such approval to the zoning administrator, which request shall identify the changes. Approval of all changes must be given in writing.

(F) A vested right established in accordance with section 4-15 shall not be extended by any amendments or modifications to an approved site-specific development plan unless expressly provided for by the board of commissioners.

(G) Specific provisions concerning modifications to existing permits for telecommunications towers are provided in section 11-4.

Sec. 4-13. Reconsideration of board action on special use and conditional use permits.

(A) Whenever (i) the board of commissioners disapproves a special use permit application, (ii) the board of adjustment disapproves an application for a conditional use permit, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

- (1) Circumstances affecting the property that is the subject of the application have substantially changed; or
- (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the zoning administrator within the time period for an appeal to superior court (see section 5-7). However, such a request does not extend the 30-day period within which an appeal must be taken.

(B) The board of commissioners or board of adjustment may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Sec. 4-14. Maintenance of common areas, improvements, and facilities.

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



replaced if they die or are destroyed.

Specific operation and maintenance agreements are required for developments located within watershed protection overlay districts that must provide stormwater control structures (see sections 12-1.11 and 12-1.13).

Sec. 4-15. Zoning vested rights.

(A) A vested right shall be established upon the approval or conditional approval of a site-specific development plan by the board of commissioners in accordance with the provisions outlined in this section. A right that has been vested as provided for in this section shall, as a general rule, remain valid for two years and shall attach to and run with the land.

(B) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this subsection shall have the meaning indicated when used in this section.

- (1) *Landowner.* Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan.
- (2) *Property.* All real property subject to the regulations and restrictions of this ordinance as well as the zoning district boundaries established by this ordinance and depicted on the official zoning map.
- (3) *Site-specific development plan.* A plan which has been submitted to Edgecombe County by a landowner describing in detail the type and intensity of use for a specific parcel or parcels of property. Such plan shall be in the form of a site plan required to obtain a special use permit or in the form of a development plan. The information required by section 4-3, section 10-3.2, and appendix 1 [of this appendix B], as applicable, shall be included. All site-specific development plans shall be approved by the board of commissioners.
- (4) *Vested right.* The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

(C) A vested right shall be deemed established upon the effective date of approval by the board of commissioners of a site-specific development plan. Following the approval of a site-specific development plan, the zoning administrator shall issue a vested right certificate to the landowner which indicates the duration of the vesting period, the conditions, if any, imposed on the approval of the site-specific development plan, and any other information determined by the zoning administrator to be necessary to administer the vested right.

(D) A vested right shall confer upon the landowner the right to undertake and complete the development and use of the property as delineated in the approved site-specific development plan. The board of commissioners may approve a site-specific development plan upon such terms and conditions as may be determined necessary to protect the public health, safety, and welfare. Failure to comply with the approved terms and conditions shall result in a forfeiture of vested rights.



(E) Approval by the board of commissioners of a site-specific development plan shall follow the procedural requirements for the issuance of a special use permit as outlined in section 4-7. Changes in or modifications to an approved site-specific development plan shall be made only with the concurrence of the board of commissioners in accordance with the provisions of section 4-12.

(F) A vested right obtained under this section runs with the land and is valid for two years from the effective date of approval by the board of commissioners of a site-specific development plan. A vested right shall not be extended by any amendments or modifications to an approved site-specific development plan unless expressly provided for by the board of commissioners. A vested right shall expire at the end of two years if no building permit applications have been filed with the county to construct the use or uses proposed in the approved site-specific development plan. If building permits are issued, the provisions of G.S. 153A-358 and G.S. 153A-362 shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the two-year vesting period.

(G) A vested right, once established or provided for in this section, precludes any zoning action by the county which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the approved site-specific development plan, except:

- (1) With the written consent of the affected landowner;
- (2) Upon findings, by ordinance after notice and a public hearing, that natural or manmade hazards in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;
- (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the county, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property that is caused by such action;
- (4) Upon findings, by ordinance after notice and a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the county of the site-specific development plan; or
- (5) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site-specific development plan, in which case the county may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.

(H) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the



county, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

(I) Notwithstanding any provisions of this section, the establishment of a vested right shall not preclude, change, or impair the authority of the county to enforce provisions of this ordinance governing nonconforming situations or uses.

(J) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights.

(K) The county shall not require a landowner to waive his vested rights as a condition of developmental approval.

Sec. 4-16. Certificate of zoning compliance.

(A) Except as otherwise specifically exempted elsewhere in this ordinance, no building shall be occupied, no land shall be used, and the use of any land shall not be changed until a certificate of zoning compliance has been issued by the zoning administrator.

(B) The certificate of zoning compliance shall state that the building and/or proposed use of land complies with the provisions of this ordinance.

(C) The certificate of zoning compliance shall be presented by the applicant to the Edgecombe County Building Inspector prior to the county's issuance of a certificate of occupancy.

(D) A temporary certificate of zoning compliance may be issued by the zoning administrator, for a period not to exceed six months, during alteration or construction for partial occupancy of a building pending completion. Such temporary certificate shall bear the dates of issuance and expiration on the certificate, shall be clearly marked, 'Temporary', and shall stipulate such conditions and safeguards as will protect the safety of the occupants and the public.

ARTICLE V.

ENFORCEMENT

Sec. 5-1. Violations.

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

5-1.1. *Development without permit.* A "development without a permit" violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction of this ordinance without required permits, certificates or other forms of authorization as set forth in this ordinance.



5-1.2. *Development inconsistent with permit.* A "development inconsistent with a permit" violation means to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

5-1.3. *Violation by act or omission.* A "violation by act or omission" means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the board of commissioners or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

5-1.4. *Use in violation.* A "use in violation" means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this ordinance, or any other regulation made under the authority conferred thereby.

5-1.5. *Subdivide in violation.* A "subdivide in violation" means to subdivide land in violation of this ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this ordinance and recorded in the office of the register of deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this ordinance.

5-1.6. *Continue a violation.* Each day's violation of any provision of this ordinance is a separate and distinct offense.

Sec. 5-2. Enforcement intent.

It is the intention of this ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this ordinance shall be presented first to the zoning administrator and that such questions shall be presented to the board of adjustment only on appeal from the zoning administrator's decision. An appeal from the decision of the board of adjustment shall be by proceedings in the nature of certiorari to the superior court as provided by law and must be filed with the Edgecombe County Clerk of Court within the 30-day appeal period described in section 5-7.2. It is further the intention of this ordinance that the duties of the board of commissioners in connection with this ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

Sec. 5-3. Enforcement procedures.

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

5-3.1. *Notice of violation.* If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the zoning administrator shall give the owner or occupant written notice, by certified or registered mail, to his last known address or by personal service or by posting notice of the violation conspicuously on the property:



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

5-3.2. *Appeal.* Any owner or occupant who has received a notice of violation may appeal in writing the decision of the zoning administrator to the board of adjustment, in accordance with the provisions of 7-1, within 30 days following the date of the notice of violation. The board of adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the notice of violation. In the absence of an appeal, the remedies and penalties sought by the zoning administrator in the notice of violation shall be final.

5-3.3. *Order of corrective action.* If upon a hearing held pursuant to an appeal as prescribed above, the board of adjustment shall find that the owner or occupant is in violation of this ordinance, the board of adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

5-3.4. *Failure to comply with an order.* If the owner or occupant of a property fails to comply with a notice of violation from which no appeal has been taken, or an order of corrective action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and section 5-4. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

Sec. 5-4. Penalties and remedies.

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

5-4.1. *Injunction.* Any violation of this ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

5-4.2. *Civil penalties.* Any person who violates any provisions of this ordinance shall be subject to the assessment of a civil penalty under the procedures provided in section 5-5.

5-4.3. *Denial of permit or certificate.* The zoning administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

5-4.4. *Conditional permit.* The zoning administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the county attorney.

5-4.5. *Revocation of permits.* In accordance with section 5-6, permits shall be revoked for any substantial departure from the approved applications, plans, or specifications; refusal or failure to comply with



the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

5-4.6. *Criminal penalties.* Any violation of this ordinance shall be a misdemeanor or infraction as provided by G.S. 14-4.

5-4.7. *State and common law remedies.* In addition to other enforcement provisions contained in this article, the board of commissioners may exercise any and all enforcement powers granted to it by state law or common law.

Sec. 5-5. Civil penalties; assessment and procedures.

5-5.1. *Penalties.* Any person who violates any provisions of this ordinance shall be subject to assessment of the maximum civil penalty allowed by law.

5-5.2. *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with section 5-3.1. If after receiving a notice of violation under section 5-3.1, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the manner of a notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

5-5.3. *Responsible parties.* The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

5-5.4. *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

5-5.5. *Demand for payment.* The zoning administrator shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

5-5.6. *Nonpayment.* If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the general courts of justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the zoning administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to G.S. 14-4.

Sec. 5-6. Permit revocation.

5-6.1. *General.* A zoning, sign, special use, or conditional use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or



maintain the property in accordance with the approved plans, the requirements of the ordinance, or any additional requirements lawfully imposed by the permit-issuing board.

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

5-6.2. *Conditional use or special use permit revocation.* Before a conditional use or special use permit may be revoked, all of the notice and hearing requirements of section 4-7.5 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

5-6.3. *Zoning or sign permit revocation.* Before a zoning or sign permit may be revoked, the zoning administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the zoning administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

Sec. 5-7. Judicial review.

5-7.1. *Appeal to superior court.* Every decision of the board of commissioners granting or denying a special use permit and every final decision of the board of adjustment shall be subject to review by the Superior Court of Edgecombe County by proceedings in the nature of certiorari.

5-7.2. *Timing of appeal.* The petition for the writ of certiorari must be filed with the Edgecombe County Clerk of Court within 30 days after the later of the following occurrences:

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

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

ARTICLE VI.

NONCONFORMING SITUATIONS

Sec. 6-1. General.

A nonconforming situation occurs when, on the effective date of this ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height



limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this ordinance, because signs do not meet the requirements of this ordinance, or because land or buildings are used for purposes made unlawful by this ordinance.

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

Sec. 6-2. Nonconforming lots.

6-2.1. Single lot of record with lot area and/or lot width nonconformity.

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

6-2.2. Lots with contiguous frontage in one ownership.

- (A) When two or more adjoining and vacant lots of record with contiguous frontage are in one ownership at the time of the adoption of this ordinance or subsequent to adoption and said lots individually have a lot area or lot width which does not conform to the dimensional requirements of the district where located, such lots shall be combined to create one or more lots that meet the standards of the district where located.
- (B) Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Edgecombe County Board of Health regulations.

6-2.3. Reduction of a lot of record. A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

6-2.4. Lot of record with setback nonconformity. When the use proposed for an undeveloped nonconforming lot is one that is conforming in all other respects except that the applicable setback requirements cannot reasonably be complied with, then the entity authorized by this ordinance to issue a permit for the proposed use (the zoning administrator, board of adjustment, or board of commissioners) may allow deviations from the applicable setback requirements if it finds that:



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

Sec. 6-3. Nonconforming use of land.

6-3.1. *Continuance of nonconforming use of land.* Any nonconforming use legally existing at the time of adoption or amendment of this ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this section.

6-3.2. *Conditions for continuance.* Such nonconforming use of land shall be subject to the following conditions:

- (A) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the board of adjustment shall consider:
 - (1) Probable traffic of each use;
 - (2) Parking requirements of each use;
 - (3) Probable number of persons on the premises of each use at a time of peak demand;
 - (4) Off-site impacts of each use, such as noise, glare, dust, vibration or smoke and other impacts on surrounding properties or the public health or safety.
- (B) The number of dwelling units in a nonconforming residential use shall not be increased.
- (C) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
- (D) If any nonconforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be a permitted use in the district in which such land is located.
- (E) The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
- (F) No additional structure(s) not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.



6-3.3. *Extension, enlargement or replacement of a nonconforming use.*

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

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

- (D) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building unless specifically authorized in accordance with subsection (C).
- (E) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the limits of the site plan upon which the mining permit was granted if ten percent or more of the natural materials had already been removed on the effective date of this ordinance.
- (F) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind or use and no violations of other sections of this article occur.



Sec. 6-4. Nonconforming structures.

6-4.1. *Continuance of nonconforming structure.* Any nonconforming structure legally existing at the time of adoption or amendment of this ordinance may be continued so long as it remains otherwise lawful.

6-4.2. *Conditions for continuance.* Such nonconforming structures shall be subject to the following conditions:

- (A) No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however, any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirements.
- (B) In the event of damage by fire or other causes to the extent exceeding 60 percent of its tax value prior to such damage as established by the building inspector, reconstruction of a nonconforming structure shall be permitted only in compliance with the dimensional provisions of this ordinance.
- (C) In the event of damage by fire or other causes to the extent causing less than 60 percent of its tax value prior to such damage as established by the building inspector, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
 - (1) In the same manner in which it originally existed subject to compliance with the requirements of the N.C. State Building Code; or
 - (2) In compliance with the dimensional requirements.
- (D) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated and with the requirements of the N.C. State Building Code.

6-4.3. *Preservation of safe or lawful conditions.* Nothing in this ordinance shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful by the county building inspector or other duly authorized official.

Sec. 6-5. Miscellaneous nonconforming situations.

6-5.1. *Nonconforming situation resulting from governmental acquisition.* Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this ordinance.

6-5.2. *Nonconforming parking created by change of use.* Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this ordinance for the proposed new use can not be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a nonconforming situation. However, the



permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available and may require that satellite parking space be obtained.

Sec. 6-6. Nonconforming projects.

All nonconforming projects on which construction was begun at least 180 days before the effective date of this ordinance as well as all nonconforming projects that are at least ten percent completed in terms of the total expected cost of the project on the effective date of this ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this section shall apply only to the particular phase under construction. In addition, as provided in G.S. 153A-344(b), neither this ordinance nor any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change so long as the building permit remains valid, unexpired, and unrevoked.

Sec. 6-7. Nonconforming signs.

6-7.1. Continuance of nonconforming signs.

- (A) Signs in existence on the effective date of this ordinance which do not conform to the provisions of this ordinance, but which were constructed, erected, affixed or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs. Although it is not the intent of this ordinance to encourage the continued use of nonconforming signs, nonconforming signs shall be allowed to continue and a decision as to the continued existence and use or removal of such signs shall be controlled as follows:
- (1) No nonconforming sign shall be changed to another nonconforming sign.
 - (2) No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.
 - (3) No nonconforming sign shall be structurally altered so as to change the shape, size, type or design of the sign other than to make the sign a conforming sign.
 - (4) No nonconforming sign shall be re-established after the activity, business or use to which it relates has been discontinued and such sign shall be removed.
 - (5) No nonconforming sign shall be re-established and all remains of the sign must be removed after damage or destruction, if the estimated expense of repairs exceeds 50 percent of the estimated total value of the sign at the time of destruction, as determined by the building inspector. If damaged by less than 50 percent, but repairs are not made within three months of the time such damage occurred, the nonconforming sign shall not be allowed to continue and must be removed.



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

6-7.2. *Violations of nonconforming sign provisions.* The zoning administrator shall order the removal of any sign maintained in violation of the provisions of this section for which removal procedures are herein prescribed, accordingly: the zoning administrator shall give 90 days written notice to the owner or lessee to remove the sign or to bring it into compliance with this ordinance. If the owner or lessee fails to remove the sign within 90 days after the 90-day written notice has been given, the zoning administrator or his duly authorized representative may institute removal proceedings according to the procedures specified in G.S. 153A-123.

ARTICLE VII.

APPEALS, VARIANCES, INTERPRETATIONS

Sec. 7-1. Appeals.

- (A) An appeal from any final order or decision of the zoning administrator may be taken to the board of adjustment by any person aggrieved. An appeal is taken by filing with the zoning administrator and the board of adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the zoning administrator and the board of adjustment when delivered to the department of planning and inspections, the required filing fee paid, and the date and time of filing entered on the notice by the planning staff.
- (B) An appeal must be taken within 30 days after the date of the decision or order appealed from.
- (C) Whenever an appeal is filed, the zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record relating to the action appealed from.
- (D) An appeal stays all actions by the zoning administrator seeking enforcement of or compliance with the order or decision appealed from, unless the zoning administrator certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the zoning administrator.



(E) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board of adjustment shall have all the powers of the officer from whom the appeal is taken.

Sec. 7-2. Variances.

7-2.1. General[ly].

- (A) An application for a variance along with the required filing fee shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator.
- (B) A variance may be granted by the board of adjustment if it concludes that strict enforcement of this ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:
 - (1) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property;
 - (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
 - (3) The hardship relates to the applicant's land, rather than personal circumstances;
 - (4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
 - (5) The hardship is not the result of the applicant's own actions; and
 - (6) The variance will neither result in the extension of a nonconforming situation in violation of article VI nor authorize the initiation of a nonconforming use of land.
- (C) In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (D) A variance may be issued for an indefinite duration or for a specified duration only. Unless otherwise specified, any order or decision of the board of adjustment granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within 60 days from the date of the decision or if construction of the use has not commenced within 180 days from the date of the issuance of a building permit.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the



written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

7-2.2 Variances from flood hazard overlay district requirements.

- (1) The board of adjustment, as established by section 3-2, hereinafter referred to as "the appeal board," shall hear and decide requests for variances from the requirements of the flood hazard overlay district requirements (section 12-2).
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. Chapter 7A.
- (3) Variances may be issued for 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.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations on the subject property, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,



- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this ordinance.
- (7) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for variances:
 - (a) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (c) Variances shall only be issued upon:
 - i) a showing of good and sufficient cause;
 - ii) a determination that failure to grant the variance would result in exceptional hardship; and
 - iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
 - (e) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) A variance may be issued for solid waste disposal facilities, hazardous waste management



facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met. A floodplain development permit may be issued for such development only if a variance is granted.

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the special flood hazard area.
- (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection level.
- (d) The use complies with all other applicable federal, state and local laws.
- (e) Edgecombe County has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 days prior to granting the variance.

7-2.3. Variances from watershed district overlay requirements.

- (A) *Minor variances.* Minor variances, as defined in section 2-4, to the provisions of section 12-1 may be approved by the board of adjustment pursuant to the procedures outlined in this article. The zoning administrator shall keep a record of all such minor variances and shall submit, for each calendar year, the record to the Division of Water Quality of the NC Department of Environment and Natural Resources on or before January 1 of the following year. The record shall include a description of each project receiving a variance and the reasons for granting the variance.
- (B) *Major variances.* Major variances, as defined in section 2-4, shall be reviewed by the board of adjustment pursuant to the procedures outlined in this article and a recommendation prepared for submission to the NC Environmental Management Commission (EMC). The record of a major variance review shall include the following items:
 - (1) The variance application;
 - (2) The hearing notices;
 - (3) The evidence presented;
 - (4) Motions, offers of proof, objections to evidence, and rulings on them;
 - (5) Proposed findings and exceptions;
 - (6) The board of adjustment's recommendation, including all conditions proposed to be added to the permit.



Upon receiving the record of a major variance review from the board of adjustment, the EMC shall (i) review the variance request, (ii) prepare a final decision on the request, and (iii) forward its decision to the board of adjustment. If the EMC approves the variance as proposed, the board of adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the board of adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance. If the EMC denies the variance request, the board of adjustment shall prepare a final decision denying the variance.

7-2.4. *Variances from airport overlay requirements.*

- (A) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in compliance with the regulations prescribed in section 12-6 may apply to the board of adjustment for a variance in accordance with the provisions of section 7-2. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this section. Additionally, no application for a variance to the requirements of section 12-6 may be considered by the board of adjustment unless a copy of this application has been furnished to the manager of the Tarboro-Edgecombe County Airport for advice as to the aeronautical effects of the variance. If the airport manager does not respond to the application within 30 days after receipt, the board of adjustment may act on its own to grant or deny said application.
- (B) Any variance granted, if such action is deemed advisable to effectuate the purpose of section 12-6 and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to install, operate or maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the owner to permit the Tarboro-Edgecombe County Airport Authority, at its own expense, to install, operate and maintain the necessary markings and lights.

(Ord. of 10-4-2004(1), § 3)

Sec. 7-3. Interpretations.

(A) The board of adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning administrator, they shall be handled as provided in section 7-1.

(B) An application for a map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the zoning administrator. The application shall contain sufficient information to enable the board of adjustment to make the necessary interpretation.

(C) Interpretations of the location of floodway and floodplain boundary lines may be made by the



zoning administrator as provided in section 12-2.8.

Sec. 7-4. Requests to be heard expeditiously.

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

Sec. 7-5. Burden of proof in appeals and variances.

(A) When an appeal is taken to the board of adjustment in accordance with section 7-1, the zoning administrator shall have the initial burden of presenting to the board of adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(B) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in section 7-2.1(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Sec. 7-6. Board action on appeals and variances.

(A) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption, then the motion is not approved.

(B) Before granting a variance, the board of adjustment must take a vote and vote affirmatively (by a 4/5 majority) on the required findings stated in subsection 7-2.1(B). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in section 7-2.1(B) shall include a statement of the specific reasons or findings of fact supporting such motion.

(C) A motion to deny a variance may be made on the basis that any one or more of the six criteria set forth in section 7-2.1(B) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board of adjustment's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).

Sec. 7-7. Hearing procedures required on appeals and variances.

(A) Before making a decision on an appeal or an application for a variance, the board of adjustment shall hold a hearing on the appeal or application.

(B) Subject to subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask



questions of persons who testify.

(C) The board of adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(D) The board of adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published.

Sec. 7-8. Notice of hearing.

The zoning administrator shall give notice of any hearing required by section 7-7 as follows:

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

Sec. 7-9. Evidence.

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

Sec. 7-10. Modification of application at hearing.

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the board of adjustment, the applicant may agree to modify his application, including the



plans and specifications submitted.

(B) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board of adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the zoning administrator.

Sec. 7-11. Record.

(A) A record shall be made of all hearings required by section 7-7, and such record shall be kept as provided by state law. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings.

Sec. 7-12. Written decision.

(A) Any decision made by the board of adjustment regarding an appeal or variance shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

(B) In addition to a statement of the board of adjustment's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts.

ARTICLE VIII.

AMENDMENTS

Sec. 8-1. Amendments in general.

(A) Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this article.

(B) Conditional use district rezoning requests shall be made in accordance with the provisions of section 8-7.

(C) As provided in G.S. 153A-344(b), amendments, modifications, supplements, repeals or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) a building permit has been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii) a vested right has been established pursuant to G.S. 153A-344.1 and the provisions of section 4-15 of this ordinance and such vested right remains valid and unexpired.



Sec. 8-2. Initiation of amendments.

(A) Any person or organization may petition the board of commissioners to amend this ordinance. The petition shall be filed with the zoning administrator and shall include, among the information deemed relevant by the zoning administrator:

- (1) The name, address, and phone number of the applicant;
- (2) A metes and bounds description and a scaled map of the land affected by the amendment if a change in zoning district classification is proposed; and
- (3) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this ordinance.

(B) Petitions for amendments shall be submitted to the zoning administrator 20 days prior to the date of the planning board meeting at which the petition will be reviewed.

Sec. 8-3. Planning board review and recommendation.

(A) Upon receipt of a petition for an amendment, the zoning administrator shall forward the request to the planning board for its consideration.

(B) The planning board shall review the proposed amendment and submit its recommendation to the board of commissioners. The planning board shall have 45 days within which to submit its recommendation. Failure of the planning board to submit its recommendation within this time period shall constitute a favorable recommendation.

Sec. 8-4. Board of commissioners review and adoption.

(A) If the planning board recommends the adoption of a proposed amendment, the zoning administrator shall consult with the clerk to the board to establish and schedule a public hearing before the board of commissioners on the petition. The public notice required for the public hearing shall be in accordance with section 8-5.

(B) If the planning board recommends against the adoption of a proposed amendment, the applicant may appear before the board of commissioners to request that a public hearing be held. If the board of commissioners refuses to schedule a public hearing, the amendment petition is summarily denied. If the board of commissioners agrees to schedule a public hearing, the public notice required for the hearing shall be in accordance with section 8-5.

(C) At the conclusion of a public hearing on the proposed amendment, the board of commissioners may proceed to vote on the proposed amendment, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.



(D) The board of commissioners need not await the recommendations of the planning board before taking action on a proposed amendment nor is the board of commissioners bound by any recommendations of the planning board that are before it at the time it takes action on a proposed amendment.

(E) The board of commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(F) Voting on amendments to this ordinance shall proceed in the same manner as other ordinances.

Sec. 8-5. Public hearing requirements.

(A) No ordinance that amends any of the provisions of this ordinance may be adopted until a public hearing has been held on such ordinance.

(B) The clerk to the board shall publish a notice of the public hearing on any ordinance that amends the provisions of this ordinance once a week for two successive weeks in a newspaper having general circulation in the county. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for the public hearing. In computing this period, the date of publication shall not be counted but the date of the public hearing shall be.

(C) With respect to map amendments, the zoning administrator shall provide first class mail notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties within 100 feet of the property rezoned by the amendment. The zoning administrator may also post notices of the public hearing in the vicinity of the property rezoned by the proposed amendment and take any other action deemed by the zoning administrator to be useful or appropriate to give notice of the public hearing.

(D) The notice required in subsection (C) shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners. In this instance, the county shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and that explains the nature of the proposed change. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside the town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to subsection (C). The person or persons mailing the notices shall certify to the board of commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, the county shall post one or more prominent signs immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

(E) The notice required or authorized by this section shall:

(1) State the date, time, and place of the public hearing;



- (2) Summarize the nature and character of the proposed change;
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
- (4) State that the full text of the amendment can be obtained from the clerk to the board; and
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

(F) The person or persons mailing notices to adjoining property owners, as defined in G.S. 153A-343, shall certify to the board of commissioners that fact.

Sec. 8-6. Ultimate issue before board of commissioners on amendments.

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

- (A) Except for rezoning requests submitted in accordance with section 8-7, the board of commissioners shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the board of commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
- (B) The board of commissioners shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Sec. 8-7. Conditional use district rezonings.

(A) There are circumstances in which a general zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of this ordinance and the adopted land development plan. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional use district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties.

(B) The conditional use district approval process is established to address those situations when a particular use may be acceptable but the general zoning district which would allow that use would not be acceptable. It allows the board of commissioners to approve a proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties. Any use permitted under this



process must also conform to the development regulations for the corresponding general zoning district. This is a voluntary procedure that is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time. Uses that may be proposed and considered for a conditional use district shall be restricted to those uses permitted in the underlying general zoning district either by right or by conditional use permit. If the proposed use is one allowed by conditional use permit, it shall be reviewed and approved by the board of commissioners rather than the board of adjustment. Approval of a petition for conditional use district rezoning shall result in (i) the zoning classification being changed to the requested conditional use district designation and (ii) the issuance of a conditional use permit.

(C) No conditional use district shall be established until after the person proposing the district has submitted a petition for the reclassification of property and the board of commissioners has approved such petition in accordance with the procedures delineated in sections 8-2 through 8-4. Every petition for the reclassification of property to a conditional use district shall be accompanied by a site plan containing the requisite information specified in appendix 1 [of this appendix B] and by an application for a conditional use permit. In the course of evaluating the proposed use, the board of commissioners may request additional information deemed appropriate to provide a complete analysis of the proposal.

(D) The board of commissioners may approve the reclassification of property to a conditional use district only upon determining that the proposed use will meet all standards and requirements in these regulations that are applicable to the proposed use. In approving a petition for the reclassification of property to a conditional use district, the planning board may recommend and the board of commissioners may attach reasonable and appropriate conditions to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the board of commissioners may find appropriate or that the petitioner may propose. Such conditions to approval of the petition may include dedication of any rights-of-way or easements for roads, water, sewer, or other public utilities necessary to serve the proposed development. Such conditions shall not include architectural review or controls. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the board of commissioners.

(E) If a petition is approved under this section, the district that is established, the approved petition, the approved conditional use permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to this ordinance and to the zoning map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional district, the approved petition, and all conditions attached to the approval. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and site plan. Any uses and structures on the subject property shall also comply with all standards and requirements for development in the underlying general zoning district.

(F) Following the approval of the petition for a conditional use district, the subject property shall be identified on the zoning map by the appropriate district designation. A conditional use district shall be identified by the same designation as the underlying general zoning district followed by the letters "CU" [for example, B-2CU]. An accompanying conditional use permit shall be issued to the applicant upon approval of the petition.



(G) Except as provided in subsection (H), changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to this ordinance or to the zoning map and shall be processed in accordance with the procedures in this article.

(H) Minor changes in the detail of the site plan which will not alter the basic relationship of the proposed development to surrounding properties or the standards and requirements of these regulations or to any conditions attached to the approval may be approved by the zoning administrator without going through the amendment process or a public hearing. The zoning administrator, at his discretion, may forward any application for changes in detail to the board of commissioners for its consideration as an amendment to this ordinance or the zoning map. The applicant may appeal the decision of the zoning administrator to the board of adjustment for review and decision as to whether an amendment to the approved district shall be required.

(I) It is intended that property shall be reclassified to a conditional use district only in light of firm plans to develop the property. Therefore, from the date of approval of the petition, the zoning administrator shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the zoning administrator determines that construction has not commenced or is not in accordance with the approved petition, site plan, conditional use permit, and conditions, the zoning administrator shall either initiate a reclassification of the property in accordance with the procedures established in this article or shall forward a report to the board of commissioners recommending that the property be reclassified to the original zoning district or to another district.

(J) After a certificate of occupancy has been issued for the development approved as a conditional use district, the zoning administrator shall periodically inspect the use and maintenance of the subject property to ensure continued compliance with this ordinance, the approved petition and site plan, and any conditions attached by the board of commissioners to approval of the petition.

Sec. 8-8. Amendments to watershed protection provisions.

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

Sec. 8-9. Amendments to stormwater management provisions.

Any and all amendments which involve regulations, standards, or procedures regarding stormwater management shall be approved by the North Carolina Department of Environment and Natural Resources, Division of Water Quality, prior to adoption. Under no circumstances shall an amendment be adopted which would cause this Ordinance to violate the minimum standards of the stormwater rule, 15A NCAC 2B .0258 Tar-Pamlico River Basin--Nutrient Sensitive Waters Management Strategy: Basin-wide Stormwater Requirements, as adopted by the North Carolina Environmental Management Commission.

(Ord. of 9-13-2004(2))



Sec. 8-10. Amendments to flood hazard zoning and flood hazard boundary map.

(A) All requests for revisions of areas of special flood hazard boundaries and base flood elevations shall be reviewed and approved by the Federal Emergency Management Agency.

(B) The existing location of any area of special flood hazard as defined in section 12-2 may be amended in cases where:

- (1) A flood control project of the federal, state, county or municipal government has substantially altered the flood hazard;
- (2) Flood data indicates that the boundaries of either of the areas as shown on the official flood boundary and floodway map are no longer correct; or
- (3) A private individual, corporation, firm or municipal agency has submitted plans for a channel improvement or relocation requiring an amendment to the official flood hazard boundary map.

(C) Applications for an amendment to the official flood boundary and floodway map shall be processed in the same manner as an amendment to the official zoning map. The applicant shall be responsible for submitting the proposed amendment and supporting documentation to the Federal Emergency Management Agency (FEMA) for its approval. The application for flood zone map amendments shall be deemed incomplete if not accompanied by a letter of approval from FEMA.

(D) All amendments to the official flood boundary map and floodway map shall be filed in accordance with G.S. 143-215.56(c).
(Ord. of 9-13-2004(2))

Sec. 8-11. Protests to zoning district changes.

(A) If a petition opposing a change in the zoning classification of any property is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of five-sevenths of the membership of the board of commissioners.

(B) To invoke the five-sevenths vote requirement, the petition must:

- (1) Be signed by the owners of 20 percent or more either of (i) the lots included in a proposed change, or (ii) the lots within 100 feet of either side or the rear of the tract to be rezoned, or (iii) the lots directly opposite the tract to be rezoned and extending 100 feet from the road frontage of such opposite lots.
- (2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
- (3) Be received by the zoning administrator in sufficient time to allow the county at least two normal



working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.

- (4) Be on a form provided by the zoning administrator and contain all the information requested on this form.

(Ord. of 9-13-2004(2))

ARTICLE IX.

ZONING

Sec. 9-1. Zoning districts.

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

(Ord. of 10-4-2004(1), § 4)

9-1.1. Residential agricultural district.

- (A) *A-1 residential agricultural district.* The A-1 residential agricultural district is primarily intended to accommodate uses of an agricultural nature, including farm residences. It also accommodates scattered nonfarm residences, including class A, B, and C manufactured homes, on large tracts of land. The district is established for the following purposes:
 - (1) To preserve and encourage the continued use of land for agricultural, forest and open space purposes;
 - (2) To discourage scattered commercial land uses;
 - (3) To encourage only those industries which are agricultural-related;
 - (4) To concentrate urban development in and around identified growth areas, thereby avoiding premature conversion of farmland to urban uses; and
 - (5) To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

The minimum lot size in the A-1 district is one acre.

9-1.2. Residential districts.



- (A) *AR-30 rural residential district.* The AR-30 rural residential district is primarily intended to accommodate a variety of low density single-family detached dwellings, class A, B, and C manufactured homes on large lots, in areas without access to public water and sewer services, and in areas where soil characteristics necessitate low density development. The AR-30 district requires a minimum lot size of 30,000 square feet.
- (B) *R-30 residential district.* The R-30 residential district is primarily intended to accommodate low density single-family detached dwellings and class A and B manufactured homes on large lots. The district is established to provide minimum standards for safeguarding rural areas without public water and sewer service, which are developing as residential and to ensure that such residential development will be at a sufficiently low density. The R-30 district requires a minimum lot size of 30,000 square feet.
- (C) *R-20 residential district.* The R-20 residential district is primarily intended to accommodate low density single-family detached dwellings, class A and B manufactured homes, manufactured home parks (by special use permit) and two family dwellings in areas which have access to public water or to public sewer service. The R-20 district requires a minimum lot size of 20,000 square feet.
- (D) *R-10 multifamily residential district.* The R-10 multifamily residential district is primarily intended to accommodate low to moderate density single-family detached dwellings, class A and B manufactured homes, two-family dwellings, and multifamily dwellings in areas with access to public water and sewer services and other urban services which can accommodate moderate residential density. The R-10 district requires a minimum lot size of 10,000 square feet for single-family dwellings and permissible nonresidential uses, 15,000 square feet for two-family dwellings, and 20,000 square feet for the first multifamily dwelling unit and 6,000 square feet for each additional unit.

9-1.3. *Office and institutional district.*

- (A) *OI office and institutional district.* The OI office and institutional district is primarily intended to accommodate office; public and institutional; business, professional, and personal services; limited support retail; and moderate density residential uses.

9-1.4. *Business districts.*

- (A) *B-1 neighborhood business district.* The B-1 neighborhood business district is primarily intended to accommodate limited retail, office, service, and moderate density residential uses. The B-1 district is typically located in the intersection area of rural roads and is intended to provide moderate intensity shopping and personal services.
- (B) *B-2 general business district.* The B-2 general business district is primarily intended to accommodate a wide range of retail, service, office, and high density residential uses. The B-2 district is typically located with access to major thoroughfares and urban services. The B-2



district is intended to accommodate intensive commercial uses such as shopping centers, strip centers, and business parks as well as freestanding, highway-oriented business establishments.

9-1.5. *Industrial districts.*

- (A) *M-1 light industrial district.* The M-1 light industrial district is primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities that have little or no adverse impact upon adjoining properties.
- (B) *M-2 general industrial district.* The M-2 general industrial district is primarily intended to accommodate a wide range of assembling, fabricating, manufacturing uses, and support retail and service uses. The M-2 district is established for the purpose of providing appropriate locations and development regulations for uses which may require special measures to ensure compatibility with adjoining properties.

9-1.6. *Conditional use districts.* In addition to the general use zoning districts established in sections 9-1.1 through 9-1.5, a corresponding conditional use district, bearing the designation CU, may be established in accordance with the provisions of section 8-7. Accordingly, the following conditional use districts may be designated upon approval by the board of commissioners of a petition by the property owners to establish a conditional use district:

A-1(CU), AR-30(CU), R-30(CU), R-20(CU), R-10(CU), OI(CU), B-1(CU), B-2(CU), M-1(CU), and M-2(CU).

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

9-1.7. *Overlay districts.* Overlay districts establish certain area regulations, which are in addition to those of the underlying general use or conditional use districts. Property within a designated overlay district may be used in a manner permitted in the underlying general use or conditional use district only if and to the extent such use is also permitted in the applicable overlay district.

- (A) *FHO flood hazard overlay district.* The FHO flood hazard overlay district is intended to set forth regulations that will protect people and property from the hazards of flooding. These regulations are specified in section 12-2.
- (B) *AO airport overlay district.* The AO airport overlay district is intended to protect the Tarboro-Edgecombe County Airport environs from encroachment of incompatible land uses which present hazards to users of the airport as well as persons residing or working in the airport vicinity. The additional regulations governing development within the AO district are delineated in section 12-6.
- (C) *Watershed protection overlay districts.* The watershed protection overlay districts are intended to establish regulations for the protection of public drinking water supplies. The watershed



protection overlay districts consist of two separate districts: the WCA overlay district and the WPA overlay district.

- (1) The WCA watershed critical area overlay district consists of that portion of the Tar River public water supply watershed designated by the NC Environmental Management Commission which is located within the Edgecombe County Planning Jurisdiction and which is located one-half mile upstream from a public water supply intake located directly in the Tar River or the ridge line of the watershed, whichever comes first.
- (2) The WPA watershed protected area overlay district consists of those portions of the Tar River public water supply watersheds designated by the NC. Environmental Management Commission which are located within the Edgecombe County Planning Jurisdiction and which are located within ten miles upstream from and draining to the public water supply intake on the Tar River or to the ridge line of the watershed, whichever comes first.

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

- (D) *TCO-transportation corridor overlay district.* The transportation corridor overlay district is established to provide specific appearance and operational standards for major highway corridors in Edgecombe County while accommodating development along the corridors. The manner in which land uses impact interchange ramps and feeder roads is of particular concern in this overlay district. Within the TCO, landscaping requirements and access control plans are required. Furthermore, utility services necessary to support surrounding development as well as to accommodate the motoring public are required in this overlay district.

The TCO shall include the existing or proposed right-of-way of specified transportation corridors at their interchanges. In general, district boundaries shall follow property lines and identifiable geographic features. Specifically, the district shall encompass land located within a buffer strip extending 1,250 feet in depth on either side of the corridor, and from feeder roads providing interchange access, as measured from and perpendicular to each side of the right-of-way. Reduction in the depth of district boundaries may be granted when:

- (1) Intervening topography or other permanent natural features preclude adjacent development from being visible from the transportation corridor, or
- (2) The adjacent underlying zoning is classified as residential and existing or approved residential development has already defined or substantially altered the natural character of the adjacent land.

Supplementary transportation corridor overlay district standards are delineated in section 12-7.

Sec. 9-2. Establishment of official zoning map.



9-2.1. *Official zoning map.* The Edgecombe County Planning and Zoning Jurisdiction is hereby divided into zones, or districts, as established in section 9-1. The official zoning map is the set of planimetric property tax map overlays as produced and maintained by the geographic information system mapping division of the Edgecombe County Tax Department.

9-2.2. *Map certification.* The official zoning map shall be identified by the signature of the chairman of the board of county commissioners, attested by the clerk to the board, and shall bear the seal of Edgecombe County, together with the effective date of this ordinance.

9-2.3. *Map changes.* If changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the official zoning map. Amendments to the official zoning map shall be made utilizing the same procedures that apply to text amendments, as set forth in article VIII. Specific public hearing notice requirements are, however, delineated in article VIII for map amendments.

9-2.4. *Unauthorized changes.* No changes in zoning district boundaries shall be made on the official zoning map, except in conformance with the procedures set forth in this ordinance. Any unauthorized change shall be considered a violation of this ordinance.

9-2.5. *Map location.* Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the Edgecombe County Department of Planning and Inspections, shall be the final authority as to the current zoning of property within the county's planning jurisdiction.

9-2.6. *Map damage and replacement.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the board of commissioners may by resolution adopt a replacement official zoning map which shall supersede the prior official zoning map. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

9-2.7. *Replacement of official zoning map.* The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The replacement official zoning map shall be identified by the signature of the chairman of the board of county commissioners, be attested by the clerk to the board, and bear the seal of Edgecombe County.

Sec. 9-3. Permitted uses.

9-3.1. *Permitted use table.*

- (A) *Table of permitted uses.* Within each zoning district indicated on the official zoning map and subject to all requirements and conditions specified in this ordinance, land, buildings, and structures shall only be used and buildings and structures shall only be erected which are intended or designed to be used for uses listed in the table of permitted uses, table 9-3-1. In the appropriate columns of table 9-3-1 uses permitted by right in the various districts are indicated



Veterinary Service (livestock)	0741	P	P							P	P
Veterinary Service (other)	0742	P	P				D	P	P	P	P
MINING USES											
Mining, Quarrying, Sand Pits, and Mineral Extraction	1000	C	C								C
RESIDENTIAL USES											
Bed and Breakfast	7011	D	D	D	D	D	P	P	P		
Boarding and Rooming House	7021					C	C		C		
Congregate Care Facility	0000						C		C		
Family Care Home	0000	P	P	P	P	P	P	P	P		
Group Care Facility	0000					C	C		C		
Homeless Shelter	0000								C		
Manufactured Home, Class A	0000	P	P	P	P	P					
Manufactured Home, Class B	0000	P	P								
Manufactured Home, Class C	0000	P	P								
Manufactured Home Park	0000				S						
Modular Home	0000	P	P	P	P	P					



Amusement or Water Parks, Fairgrounds	7996	C	C						P	D	
Athletic Fields	0000	C	C	C	C	C	P	P	P	P	P
Auditorium, Coliseum or Stadium	0000						P		P		
Batting Cages	7999	C	C					P	P		
Billiard Parlor	7999							P	P		
Bingo Games	7999							P	P		
Bowling Center	7933								P		
Club	8640	C	C	C	C	C	P	P	P		
Coin Operated Amusement	7993							P	P		
Country Club with Golf Course	7997	C	C	C	C	C	P		P		
Dance School	7911						P	P	P		
Fortune Tellers, Astrologers	7999								P		
Go-Cart Raceway	7999								D		
Golf Course	7992	C	C	C	C	C	P		P		
Golf Course, Miniature	7999	C	C					P	P		
Golf Driving Range	7999	C	C					D	P		
Physical Fitness Center	7991							P	P	P	
Private Campground/RV Park	7033	D	D					D	D		
Private Club or Recreation Facility, Other	7997	C	C				C		P		



Public Park or Recreational Facility, Other	7990	P	D	D	D	D	P	P	P	P	P
Race Track Operation	7948	C	C								
Riding Academy	7999	D	D						D		
Shooting Range, Indoor	7999								D	D	D
Shooting Range, Outdoor	7999	C	C				C				
Skating Rink	7999								P	P	
Sports and Recreation Club, Indoor	7997						P	P	P		
Swim and Tennis Club	7997	C	C	C	C	C	D	D	D		
EDUCATIONAL AND INSTITUTIONAL USES											
Ambulance Service	4119	P	P	P	P	P	P	P	P	P	P
Cemetery or Mausoleum on Same Property as Church	0000	P	P	P	P	P	P	P	P	P	P
Cemetery or Mausoleum Not on Same Property as Church	0000	P	P	P			P		P		
Cemetery, Family	0000	D	D								
Church	8661	P	D	D	D	D	P	P	P		
College, University, Technical Institute	8220						P				



Accounting, Auditing or Bookkeeping	8721						P	P	P	P	
Administrative or Management Services	8740						P	P	P	P	
Advertising, Outdoor Services	7312								P	P	P
Automobile Parking (Commercial)	7521						P		P	P	P
Automobile Rental or Leasing	7510								P	P	P
Automobile Repair Services	0000							C	P	P	P
Automobile Towing Services	7549							P	P	P	P
Bank, Savings and Loan, or Credit Union	6000						P	P	P	P	
Barber Shop	7241						P	P	P	P	
Beauty Shop	7431						P	P	P	P	
Blacksmith	7699	P	P					P	P	P	P
Boat Repair	3730	P	P					P	P	P	P
Building Maintenance Services, No Outside Storage	7349							P	P	P	P
Business, Accessory to Residence		C	C	C	C	C	P	P	P		
Car Wash	7542							P	P	P	P
Clothing Alteration or Repair	0000							P	P		
Combination Use		C	C	C	C	C	P	P	P		



Computer Maintenance and Repair	7378							P	P	P	
Computer Services	7370						P	P	P	P	
Employment Agency, Personnel Agency	7360						P	P	P	P	
Engineering, Architect or Survey Service	8710						P	P	P	P	P
Equipment Rental and Leasing (no outside storage)	7350							P	P	P	P
Equipment Rental and Leasing (with outside storage)	7350								P	P	P
Equipment Repair, Heavy	7690										P
Equipment Repair, Light	7690							P	P	P	P
Finance or Loan Office	6100						P	P	P	P	
Funeral Home or Crematorium	7261						P		P	P	
Furniture Refinishing	7641										P
Furniture Repair Shop	7641							P	P	P	P
Hotel or Motel	7011						P		P		
Insurance Agency	6411						P	P	P	P	
Kennels or Pet Grooming	0752	P	P					D	D	P	P



Landscape and Horticultural Services	0780	P	P					P	P	P	P
Laundromat, Coin-Operated	7215							P	P		
Laundry or Dry Cleaning Plant	7211								P	P	P
Law Office	8111						P	P	P	P	
Medical, Dental or Related Office	8000						P	P	P	P	P
Medical or Dental Laboratory	8071						P		P	P	P
Miscellaneous Services, Not Listed	7699								P	P	
Motion Picture Production	7810								P	P	
Office Uses Not Otherwise Classified	0000						P	P	P	P	
Pest or Termite Control Services	7342								P	P	P
Pet Cemetery	6553	P	P				P		P		
Photocopying and Duplicating Services	7334						P	P	P	P	
Photofinishing Laboratory	7384								P	P	
Photography, Commercial Studio	7335						P		P	P	
Real Estate Office	6500						P	P	P	P	



Arts and Crafts	0000	P	P					P	P		
Auto Supply Sales	5531							P	P		
Bakery	5461								P		
Bar, Night Club, Tavern	5813	C	C				C	D	D		
Boat Sales	5551							P	P	P	P
Bookstore	5942						P	P	P		
Building Supply Sales	5211							D	D	P	P
Computer Sales	5734						P	P	P	P	
Convenience Store	5411	D	D				D	P	P	P	P
Department, Variety or General Merchandise	5300								P		
Drugstore	5912						P	P	P		
Fabric or Piece Goods Store	5949								P		
Farm Supplies and Equipment	0000	P	P					P	P		
Floor Covering, Drapery or Upholstery	5710							P	P	P	
Florist	5992						P	P	P		
Food Store	5400							P	P		
Fuel Oil Sales	5980									P	P
Furniture Sales	5712								P		
Garden Center or Retail Nursery	5261	P	P					P	P	P	
Hardware Store	5251							P	P		



Home Furnishings, Miscellaneous	5719								P		
Manufactured Home Sales	5271								P	P	P
Miscellaneous Retail Sales	5999							P	P		
Motor Vehicle Sales (new and used)	5511							P	P	P	P
Motorcycle Sales	5571							P	P	P	P
Musical Instrument Sales	5736								P		
Newsstand	5994							P	P	P	
Office Machine Sales	5999							P		P	
Optical Goods Sales	5995							P		P	
Paint and Wallpaper Sales	5231							P	P	P	
Pawnshop or Used Merchandise Store	5932							P	P		
Pet Store	5999								P		
Record and Tape Store	5735								P		
Recreational Vehicle Sales	5561							P	P	P	P
Restaurant (with drive-thru)	5812							P	P		
Restaurant (without drive-thru)	5812							P	P	P	P
Service Station, Gasoline Sales	5541							D	P	P	P



Sporting and Recreational Goods and Supplies	5091								P	P	P
Tobacco and Tobacco Products	5194	P	P						P	P	P
Toys and Hobby Goods and Supplies	5092								P	P	P
Wallpaper and Paint Brushes	5198								P	P	P
TRANSPORTATION, WAREHOUSING AND UTILITIES											
Airport or Air Transportation Facility	4500						C		C		
Bulk Mail and Packaging	4212									P	P
Bus Terminal	4100								P	P	P
Communication or Broadcasting Facility	4800						P		P	P	P
Courier Service	4215								P	P	P
Demolition Debris Landfill	0000	C	C						C	C	C
Farm Product Warehousing and Storage	4221	C	C					C	P	P	P



Solid Waste Disposal (non-hazardous), Collection Sites, Convenience Centers, and Transfer Sites	4953	S	S						S	S	S
Taxi Terminal	4121								P	P	P
Telecommunications Towers and Facilities	0000	C	C					C	C	C	C
Trucking or Freight Terminal	4213									P	P
Utility Company Office	0000						P		P	P	P
Utility Equipment and Storage Yards	0000									P	P
Utility Lines	0000	P	P	P	P	P	P	P	P	P	P
Utility Service Facility (no outside storage)	0000								P	P	P
Utility Related Appurtenances, Substation	0000	D	D	D	D	D	D	D	D	D	D
Warehouse (general storage, enclosed)	4220							P	P	P	P
Warehouse (self-storage)	4225							P	P	P	P
Water Treatment Plant	0000	S					S	S	S	S	S



Sawmill or Planing Mills	2420	P	P								P
Signs	3993									P	P
Soaps and Cosmetics	2840									P	P
Sporting Goods and Toys	3940									P	P
Sugar and Confectionery Products	2060									P	P
Surface Active Agents	2843										P
Textile Products (no dyeing and finishing)	2200									P	P
Textile Products (with dyeing and finishing)	2260										P
Tires and Inner Tubes	3011										C
Tobacco Products	2110										P
Wood Containers	2440									P	P
Wood Products, Logging	2411	P	P	P	P						P
Wood Products, Miscellaneous	2490										P
OTHER USES											
Arts and Crafts Shows	0000	D	D				P	P	P	P	P
Automobile Parking On Same Lot As Principal Use	0000	P	P	P	P	P	P	P	P	P	P
Billboards, Advertising Signs	0000							P	P	P	P



Carnivals and Fairs	7999	C	C				C		P	P	P
Christmas Tree Sales	0000	P	P				P	P	P	P	P
Concerts, Stage Shows	7920						C		P	P	P
Conventions, Trade Shows	0000						P		P	P	P
Horse Shows	7999	D	D						D	D	D
Outdoor Flea Markets	5932	D	D					P	P		
Outdoor Fruit and Vegetable Markets	5431	D	D					P	P		
Outdoor Religious Events	0000	P	P				C	P	P	P	P
Sexually-Oriented Businesses	0000								C		
Shopping Center	0000								P		
Temporary Construction, Storage or Office; Real Estate Sales or Rental Office (with concurrent building permit for permanent building)	0000	P	P	P	P	P	P	P	P	P	P
Temporary Hardship Manufactured Home	0000	C	C	C	C	C					



Temporary Emergency, Construction, and Repair Residence	0000	D	D	D	D	D	D	D	D	D	D
Turkey Shoots	0000		D					D	D		

P = Use permitted by Zoning Permit

D = Use permitted by Zoning Permit with development standards.

S = Special Use Permit required (Board of Commissioners).

C = Conditional Use Permit required (Board of Adjustment).
(Ord. of 5-2-2005(2), § 1; Ord. of 6-5-2006(2), § 1)

- (3) Rental and leasing of any commodity shall be permitted under the same classification and in the same districts as are sales of that commodity, unless rental or leasing of that commodity is listed separately in the permitted use table.
- (4) If an industrial plant or facility involves two (or more) manufacturing activities with different SIC codes on the same zone lot, the industrial plant shall be permitted only in those zoning districts where the more restricted activity is permitted. (For example, an industrial plant preparing canned peanuts and also manufacturing the cans is allowed in those zoning districts permitting can manufacturing.)

9-3.2. *Permissible uses not requiring permits.* Notwithstanding any other provisions of this ordinance, no zoning, special use, or conditional use permit is necessary for the following uses:

- (A) Roads.
- (B) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right of way.
- (C) Communication towers located on government facilities and structures (all other communication towers are permitted only in accordance with the requirements of section 11-4.22 and 11-4.23).

9-3.3. *Change in use.*

- (A) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:



- (1) The change involves a change from one principal use category to another.
 - (2) If the original use is a combination use, the relative proportion of space devoted to the individual principal uses that comprise the combination use changes to such an extent that the parking requirements for the overall use are altered.
 - (3) If the original use is a combination use, the mixture of types of individual principal uses that comprise the combination use changes.
 - (4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
 - (5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center-combination use) has not changed.
- (B) A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
- (C) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

9-3.4. *Combination uses.*

- (A) When a combination use comprises two or more principal uses that require different types of permits (zoning, special use, or conditional use), then the permit authorizing the combination use shall be:
- (1) A special use permit if any of the principal uses combined requires a special use permit.
 - (2) A conditional use permit if any of the principal uses combined requires a conditional use permit.



- (3) A zoning permit in all other cases.
- (B) When a combination use consists of a single-family detached residential subdivision that is not a planned unit development and two-family or multifamily uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

9-3.5. *Prohibited uses.* Within certain overlay districts some uses are specifically prohibited. The following uses are prohibited in the overlay districts listed.

- (A) *WCA Watershed protection overlay district:* The following uses are prohibited:
 - (1) New landfills;
 - (2) New sites for land application of residuals; and
 - (3) New sites for land application of petroleum-contaminated soils.
- (B) *WPIV-PA Watershed protection overlay district:* The following uses are prohibited:
 - (1) No uses are prohibited.
- (C) *FHO Flood hazard overlay district:* The following uses are prohibited in designated floodways:
 - (1) Buildings, including manufactured homes; and
 - (2) Any use that would cause any increase in base flood levels.

The following development is prohibited in designated floodplains due to the NC Flood Act of 2000:

- (a) New solid waste disposal facilities;
- (b) New hazardous waste management facilities;
- (c) New salvage yards; and
- (d) New chemical storage facilities.

- (D) *AO Airport overlay district:* (Reserved)
(Ord. of 10-4-2004(1), § 4)

Sec. 9-4. Density and dimensional requirements.



Within the zoning districts as shown on the official zoning map all of the following requirements shall be complied with:

9-4.1. Residential agricultural and residential districts.

- (A) *Density and dimensional requirements.* The density and dimensional requirements for the residential agricultural and residential districts are found in table 9-4-1.
- (B) *Cluster development.*
 - (1) *Cluster option.* Cluster development may be used in any zoning district which permits single-family uses if the tract to be developed is ten acres or larger in area.
 - (2) *Development standards.* The objective of the cluster option is to place the houses in a development closer together and on smaller lots than would normally be permitted by the zoning district in which the development is located, and to place land which would otherwise have been included in private lots into public dedication or common area. The total number of lots permissible within a cluster development shall not exceed the maximum number of lots allowed if the tract were subdivided into the size of lots required by table 9-4-1.

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

	Districts				
	A-1	AR-30	R-30	R-20	R-10
Minimum Lot Size (Sq. Ft.) ¹					
Single-Family Dwelling	43,560	30,000	30,000	20,000	10,000
Two-Family Dwelling	--	--	--	20,000	15,000
1st Multi-Family Dwelling Unit	--	--	--	--	20,000
Each Additional Multi-Family Dwelling Unit After One	--	--	--	--	6,000
Permissible Nonresidential Use	40,000	30,000	30,000	20,000	10,000
Minimum Lot Width (Ft.)					
Single-Family Dwelling	150	125	125	125	125
Two-Family Dwelling	--	--	--	125	125
Multi-Family Dwelling	--	--	--	--	150
Permissible Nonresidential Use	150	125	125	125	125



For Lots Along Major Roads ²	200	200	200	200	200
Minimum Building Setback (Ft.)					
Single-Family Dwelling:					
Road Right-of-Way	50	50	50	50	25
Side Property Line ³	20	12	12	12	12
Rear Property Line	40	35	35	35	20
Two-Family Dwelling:					
Road Right-of-Way	--	--	--	25	25
Side Property Line ³	--	--	--	20	10
Rear Property Line	--	--	--	35	20
Multi-Family Dwelling:					
Road Right-of-Way	--	--	--	--	25
Side Property Line ³	--	--	--	--	12
Rear Property Line	--	--	--	--	20
Permissible Nonresidential Use:					
Road Right-of-Way	50	35	35	35	35
Side Property Line ³	20	15	15	25	15
Rear Property Line	40	35	35	35	30
Maximum Building Height (Ft.)					
All Permissible Uses	35	35	35	35	35
Maximum Built-Upon Area ⁴	--	--	30%	30%	30%

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

² Major Roads will be defined as all Principal Arterials, Minor Arterials, and Major Collectors, as classified in the Edgecombe County, NC Thoroughfare Plan.

³ A corner lot shall be required to provide a road right-of-way setback along all side roads. Through lots shall have two road setbacks but no rear setback.

⁴ For property located within a watershed protection overlay district, see section 12-1 for additional maximum built-upon area requirements.

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

- (a) When cluster development is employed, all lot size and other dimensional requirements for single-family dwellings are decreased to comply with all requirements of a smaller lot zoning district as delineated in table 9-4-2.



Table 9-4-2

Cluster Development

Zoning District of Proposed Cluster Development	Single-family Lots and Buildings in Cluster Development Must Meet the Density and Dimensional Requirements of This District
A-1	AR-30
AR-30	R-20
R-30	R-20
R-20	R-10
R-10	R-10
	except that the minimum lot area may be decreased to 7,500 square feet

- (b) The sum of those areas placed into common area as open space, or those areas dedicated as public open space in excess of any required dedication for such purposes, shall not be less than 15 percent of the total area of the development.
 - (c) Common areas shall be located within the development to:
 - (i) Preserve stands of trees, natural vegetation, lakes, steep slopes, historic sites or other significant features;
 - (ii) Provide common green space in the development for aesthetic purposes and pedestrian use;
 - (iii) Provide space for common recreation facilities and meeting places; or
 - (iv) Provide buffering from adjacent land uses of higher intensity.
 - (d) Common area for open space shall be of usable dimensions and shall be accessible to all homeowners in the development.
 - (e) Homeowners or property owners' associations responsible for the maintenance and control of common access shall be established pursuant to section 10-5.
 - (f) Any open space areas proposed for public dedication shall follow the applicable procedural requirements established by Edgecombe County.
- (3) *Cluster development in watershed protection overlay districts.* Cluster development within all watershed overlay protection districts is allowed provided that the provisions of section 12-1.6 are met.



- (C) *Zero side setback.*
 - (1) *Zero side setback option.* Zero side setback development may be used in any district which permits single-family uses if the development contains ten or more contiguous lots and is served by public sanitary sewer.
 - (2) *Development standards.*
 - (a) Setbacks of zero feet are permitted only where the lots on both of the affected lot lines are part of a zero side setback development.
 - (b) A wall and roof maintenance easement (five feet along one-story walls, ten feet along two-story walls) shall be provided on the opposite side of the zero setback lot line.
 - (c) Whenever one side setback is zero, the minimum setback on the opposite side of the same lot shall be twice the minimum side setback required by this ordinance for the zoning district in which the development is located.
- (D) No lot created after the effective date of this ordinance that is less than the lot width required in table 9-4-1 shall be entitled to a variance from any building setback requirement.

9-4.2. *Nonresidential districts.*

- (A) Dimensional requirements for nonresidential districts. Dimensional requirements for nonresidential districts are shown in table 9-4-3.
- (B) No lot created after the effective date of this ordinance that is less than the lot width required in table 9-4-3 shall be entitled to a variance from any building setback requirement.
- (C) Whenever a greater building setback is required by the NC Building Code, such greater setback shall be applicable.
- (D) When cluster development is employed in nonresidential districts, all lot size and other dimensional requirements for single-family dwellings are decreased to comply with all requirements of the R-10 zoning district except that the minimum lot area may be decreased to 7,500 square feet.

Sec. 9-5. Accessory uses, buildings and structures.

The following requirements are for customary accessory buildings and structures. Other accessory buildings and structures containing specific accessory uses listed in table 9-3-1 (permitted use table) may have additional development requirements found in section 11-4 (development standards for individual uses).



Table 9-4-3

Table of Density and Dimensional Requirements Nonresidential Districts

	District				
	OI	B-1	B-2	M-1	M-2
Minimum Development Size (AC) ¹	--	--	--	--	--
Minimum Lot Width (FT)	75	75	75	100	100
Building Setback (FT) ²					
Road Right-of-Way	30	25	25	35	35
Side Property Line ³	12	--	--	10	10
Rear Property Line	20	--	--	20	20
Maximum Built-Up Area ¹	-- ⁴	-- ⁴	-- ⁴	60% ⁴	60% ⁴
Maximum Building Height (Ft) ⁵	⁵	⁵	⁵	⁵	⁵

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

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

³ A corner lot shall be required to provide a road right-of-way setback along all side roads. Through lots shall have two road setbacks but no rear setback.

⁴ If located outside of a watershed protection overlay district and if public water and sewer service is available, there is no maximum built-upon area requirement.

⁵ No maximum building height. However, all building setbacks shall increase one foot for every foot in height between 50 feet and 80 feet. No additional setback is required for buildings greater than 80 feet in height.

Notes:

1. Permitted residential uses in nonresidential districts shall comply with the R-10 density and dimensional requirements outlined in table 9-4-1.
2. Setback distances shall be measured from the road right-of-way line or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it nor a building part allowed to encroach into a setback (see section 9-6.3).



3. Whenever a greater building setback is required by the NC Building Code, such greater setback shall be applicable.

9-5.1. *Setback requirements.*

- (A) *Road.* No encroachment in the road setback is permitted.
- (B) *Side and rear.* If the gross floor area (GFA) of the accessory structure or building is 1,200 square feet or less, the structure or building must be located not less than five feet from a side and rear property line. If the GFA is greater than 1,200 square feet, the structure or building must be located not less than ten feet from a side and rear property line.

9-5.2. *Location.*

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

9-5.3. *Height.* The height of all accessory structures and buildings shall comply to the zoning district in which it is located.

9-5.4. *Accessory use area.* Any nonresidential accessory use in a residential zoning district shall not exceed 25 percent of any of the following measures: building volume, floor area, land area, or any other appropriate measure of usage.

Sec. 9-6. Supplementary dimensional requirements.

9-6.1. *Structures permitted above height limits.* Except as otherwise prohibited by this ordinance, the height limitations of this ordinance shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles, radio, television and communication towers, masts, aerials and similar structures, provided such structures meet the required NC Building Code.

9-6.2. *Prevailing road setback.* Where 50 percent or more of the lots in a recorded subdivision on the same side of the road as the lot in question are developed with less than the required road setbacks, the average setback of the two principal buildings nearest that lot shall be observed as the required minimum setback.

9-6.3. *Encroachments into required setbacks.*

- (A) *Encroachments permitted in required setback.* The following are permitted in required setbacks



provided there is no interference with any sight area:

- (1) Landscaping features, including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
 - (2) At grade patios, play equipment or outdoor furniture, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, outdoor fire places, public utility wires and poles, pumps or wells, and fences or retaining walls;
 - (3) Handicapped ramps.
- (B) *Structures permitted in required setbacks.* The following structures may encroach into any required setback:
- (1) Cornices, steps, overhanging eaves and gutters, window sills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half feet into any required setback, but in no case shall be closer than three feet to any property line; and
 - (2) Porches and decks may encroach into the required road and rear setbacks as follows:

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

- (C) *Canopy projections.* Gas station and convenience store pump island canopies may be located in the road setback provided that no equipment or part of a canopy is located closer than 15 feet to a road right-of-way line if the pump island is parallel to the road right-of-way or 50 feet if the pump island is perpendicular to the road right-of-way.

9-6.4. *Easement encroachments.*

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

9-6.5. *Setbacks from thoroughfares.* Where proposed road alignments have been established, in accordance with an adopted thoroughfare plan, building setbacks shall be measured from the future right-of-way line of the proposed road.

9-6.6. *Setbacks from private roads.* Building setbacks from approved private roads shall be the same



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

9-6.7. *Setbacks on flag lots.* Flag lots: In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the road to which the flagpole connects shall be considered to be the front lot line for road setback purposes. The "flagpole" portion of this type of lot shall not be used to calculate building setbacks [See also section 10-7.2 (F)(3)].

Sec. 9-7. General lot requirements.

9-7.1. *Principal buildings per lot.* Every building hereafter erected or moved shall be located on a buildable lot; and in no case shall there be more than one principal residential building and its accessory buildings on a buildable lot except as provided below.

- (A) *Nonresidential group development.* Two or more principal nonresidential buildings are permitted on a lot pursuant to a site plan approved by the planning board, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles.
- (B) *Residential group development.* Two or more principal buildings are permitted in a multifamily development pursuant to a site plan approved by the planning board, provided that an access driveway is maintained to each building in passable condition for service and emergency vehicles.
- (C) *Manufactured home park.* Five or more principal buildings are permitted in a manufactured home park pursuant to a site plan approved in accordance with the provisions of section 11-4.49.

Every principal residential structure shall be situated on a buildable lot that contains the minimum lot area, lot width, and building setbacks that are required for the zoning district in which located. A site plan, submitted to and approved by the planning director, shall be required whenever two or more principal structures are proposed to be located on a single parcel or tract.

9-7.2. *Road access requirements.*

- (A) *Access to public road required.* Every lot shall abut and have direct access to a publicly maintained road or to a private road, except as provided for in this section. No building or structure shall be constructed, erected, or placed on a lot that does not abut and have direct access to a publicly maintained road, except as provided in this section.
- (B) *Dead-end roads.* For purposes of this section the terminus of a dead-end road does not provide the required access to a publicly maintained road unless that terminus is a circular turnaround or other turnaround approved and constructed in conformance with article X (subdivisions; procedures and standards).
- (C) *Single-family detached cluster development.* Private roads may be used to meet access requirements for lots in single-family detached cluster developments and for single-family lots in



planned unit developments, provided the development as a whole abuts and has direct access to a publicly maintained road.

- (D) *Townhouse developments.* Individual parcels shall have right of access through common areas containing private roads and/or private drives at least 24 feet in width leading to a publicly maintained road. Individual parcels may have direct access to a publicly maintained road with planning board approval.
- (E) *Manufactured home park.* Manufactured home park lots or spaces shall be developed in accordance with section 11-4.49.
- (F) *Nonresidential unified development.* Individual parcels, whether leased or sold, in a unified development shall have shared rights of access along private roads and/or along private drives at least 24 feet in width leading to a publicly maintained road. Maintenance of all private roads and private drives shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one landowner, an owners' association, or all owners acting collectively pursuant to a binding agreement.
- (G) *Exceptions.* Special-purpose lots may provide access via easement in accordance with section 9-9 (special-purpose lots) and lots meeting the access requirements of section 10-7.2 (F).

9-7.3. *Unified development.*

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

9-7.4. *Water and sewage disposal requirements.* Every lot shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable health regulations.



Sec. 9-8. Lot size reduction prohibitions.

9-8.1. *Single lot.* No lot shall be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built-upon area, width, setback, parking, buffer yard, or signage requirement of this ordinance is created, nor shall any existing nonconformity or violation be increased.

9-8.2. *Buildable lot.* Where two or more contiguous lots in one ownership collectively form a buildable lot, that lot shall not be reduced in size so that noncompliance with respect to any frontage, building coverage, area, built-upon area, width, setback, parking, buffer yard, or signage requirement of this ordinance is created, nor shall any existing nonconformity or violation be increased. An instrument of combination (or similar document or procedure) shall be prepared and recorded where two or more contiguous lots in one ownership collectively form a buildable lot.

9-8.3. *Exemption.* These prohibitions shall not apply to county, municipal or state acquisition of land.

Sec. 9-9. Special purpose lots.

Requirements of this article with respect to road frontage, minimum lot area, and minimum lot dimensions shall not apply to lots for family or church cemeteries, sewer lift stations, and similar utility uses. Such lots shall comply with the requirements below.

9-9.1. *Minimum size.* The special purpose lot shall be permitted only after the technical review committee has determined that the proposed lot has sufficient dimensions to accommodate the intended use and, where required by this ordinance, buffer yards.

9-9.2. *Access easement.* If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of ten feet shall be platted.

9-9.3. *Platting.* The subdivision to create the lot shall be approved in accordance with article X (subdivisions; procedures and standards). The final plat shall label the lot as a "Special Purpose Lot for use as _____."

Sec. 9-10. Planned unit development.

A planned unit development is an area of land under unified ownership or control to be developed and improved as a whole under a unified development plan in accordance with the requirements of this section. The planned unit development regulations are designed to provide flexibility, consistent with the public health and safety and without increasing overall density, to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

9-10.1. *Relationship to other applicable regulations.* A planned unit development shall be subject to all of the applicable standards, procedures and regulations of this ordinance except as varied or changed by the express terms of this section and section 11-4.62.



9-10.2. Dimensional requirements. The minimum lot area requirements for individual lots may be reduced, but in no case may an individual lot area be reduced such that it is less than 75 percent of the minimum lot size delineated in table 9-4-1 for the underlying zoning district in which the planned unit development is located. For planned unit developments in the OI district, minimum lot sizes for residential uses shall not be reduced to less than 7,500 square feet in area. Each lot created within a planned unit development shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this ordinance.

The overall residential density of a PUD shall not exceed that normally permitted in the underlying zoning district. Building setback requirements are waived except that lots and structures within 150 feet of the perimeter of the planned unit development shall be in harmony with development on adjacent lands. No commercial use shall be permitted within 150 feet of the perimeter of the planned unit development unless the same or a similar use exists adjacent to the perimeter at the time of approval of the planned unit development.

9-10.3. Review and approval procedures. The procedure for approval of a planned unit development shall combine the special use permit review process and the subdivision plat review process. A master site plan for the entire development shall be prepared and submitted along with a preliminary plat of those portions of the PUD which will be subdivided. Submission and review procedures for special use permit requests are described in section 4-7. Specific development standards for a PUD are delineated in section 11-4.61. A final approved plat is necessary prior to issuance of a certificate of zoning compliance.

ARTICLE X.

SUBDIVISIONS; PROCEDURES AND STANDARDS

Sec. 10-1. Regulation of subdivisions in general.

10-1.1. *Exclusion determination.* If a proposed division of land meets one or more of the exclusions under the definition of "subdivision" in article II (definitions), the owner may submit to the planning department maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the zoning administrator. An owner of land who wishes to record a plat of such a division of land shall obtain a certificate of exception (see appendix A-2-2 (M) [of this appendix B]) from the director of planning.

10-1.2. Approval required.

- (A) *Date of compliance.* After the effective date of this ordinance and in accordance with G.S. 153A-332, no plat for the subdivision of land within Edgecombe County shall be filed, accepted for recording, or recorded, nor shall the clerk of the superior court order the recording of a plat until it has been submitted to and approved by the county.
- (B) *No subdivision without approval.* No real property, including property declared under the N.C. Condominium Act, G.S. 47C-1 et.seq., lying within the Edgecombe County Planning Jurisdiction as now or hereafter fixed shall be subdivided except in conformance with all applicable provisions of this article. Violation of this section shall be a misdemeanor.



- (C) *Notice required.* With respect to major subdivisions, the zoning administrator shall provide first class mail notice of the planning board meeting at which the development plan will be reviewed to the record owners for tax purposes of all properties within 100 feet of the property proposed to be subdivided. The zoning administrator may also take any other action deemed by the zoning administrator to be useful or appropriate to give notice of the planning board meeting.

10-1.3. *Coordination with other procedures.* To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with other applications for approvals required for the particular project.

10-1.4. *Sketch plans and development plans approved prior to the effective date of this ordinance.* Sketch design plans and development plans approved by the planning board or board of commissioners prior to the effective date of this ordinance shall be valid for 12 months from the date of approval of the plan or plat unless a longer time period has been authorized through vested rights provisions.

Sec. 10-2. Minor subdivision procedures.

10-2.1. Applicability.

- (A) The planning director or his designee shall approve or disapprove minor subdivision plats in accordance with the provisions of this section. The planning director may refer minor subdivisions of four or less lots to the technical review committee for review and recommendation. A minor subdivision, as defined in article II, is a subdivision involving four or less lots fronting on an existing, approved public road(s), not requiring any new public or private road(s) nor easements for access to interior property, not requiring an extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this ordinance.
- (B) Not more than a total of four lots may be created out of one tract using the minor subdivision plat approval process during a two-year period.

10-2.2. Minor subdivision review and approval procedures.

- (A) The applicant for minor subdivision plat approval is encouraged to confer with the planning director prior to submitting a minor subdivision plat for a determination of whether the approval process authorized by this section can be and should be utilized. The planning director may require the applicant to submit information necessary to determine whether or not the proposed subdivision is eligible for processing under the minor subdivision approval process.
- (B) The applicant for minor subdivision plat approval shall submit to the planning director a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Edgecombe County Register of Deeds Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equals not more than 100 feet. The



applicant shall also submit five prints of the plat as well as any required application form and required fee.

- (C) The minor subdivision plat shall contain the following information:
- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Edgecombe County Registry;
 - (2) The name of the subdivision owner or owners;
 - (3) The township, county and state where the subdivision is located;
 - (4) The name of the surveyor and his registration number and the date of survey;
 - (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
 - (6) All of the additional information required by G.S. 47-30, G.S. 39-32.3, and appendix 1 [of this appendix B];
 - (7) All of the applicable certificates required in appendix 2 [of this appendix B]; and
 - (8) Total acreage including gross and net usable acreage.
- (D) The planning director shall take expeditious action on an application for minor subdivision plat approval. A decision shall be rendered by the planning director within ten working days after receipt of the proposed minor subdivision plat. If no decision is rendered by the planning director within the required ten-working day period, the applicant may appeal to the planning board for review of the application under the major subdivision approval process. Either the planning director or the applicant may at any time refer the application to the major subdivision approval process.
- (E) Subject to subsection (D), the planning director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in article II or the application or the proposed subdivision fails to comply with any other applicable requirement of this ordinance.
- (F) If the subdivision is disapproved, the planning director shall promptly furnish the applicant with a written statement of the reasons for disapproval. If a minor subdivision plat is disapproved by the planning director, the applicant may appeal the decision by requesting that the plat be scheduled for review by the planning board according to the same review and approval procedures set forth in section 10-3.3 for development plans.
- (G) Approval of any plat is contingent upon the plat being recorded within 60 days after the date the certificate of approval is signed by the planning director or his designee. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.



Sec. 10-3. Major subdivision procedures.

10-3.1. Applicability.

- (A) A major subdivision, as defined in article II, is a subdivision involving five or more lots, or requiring a new public or private road(s) for access to interior property, or requiring extension of a public sewer or water line, or requiring a waiver or variance from any requirement of this ordinance. When a subdivision is to be developed in stages, a development plan shall be submitted for the entire development. A final plat may be submitted for each stage.
- (B) The procedures for the review of a major subdivision generally involve (i) sketch design plan review and approval by the planning director, (ii) a development plan review by the technical review committee and review and approval by the planning board, and (iii) a final plat review and approval by the planning director.

10-3.2. Submission of the sketch plan for a major subdivision to the planning director.

- (A) *Submission requirements.* The developer shall submit five copies of the sketch design plan to the planning director prior to submitting a development plan.
- (B) *Sketch plan contents.* The proposed sketch plan shall be prepared by a registered land surveyor or engineer licensed to render said service in the State of North Carolina and shall depict the following information:
 - (1) The name and location of the proposed subdivision;
 - (2) The date that the sketch plan was prepared or revised;
 - (3) North arrow;
 - (4) Vicinity map;
 - (5) Scale (1 inch = 100 feet if less than three acre lots);
 - (6) Scale (1 inch = 200 feet if greater than three acre lots);
 - (7) Total number of lots;
 - (8) The names of adjacent property owners;
 - (9) Adjoining property lines within 100 feet of the property;
 - (10) Corporate limits, county lines, ETJ boundaries, etc.;



- (11) Existing structures, wells, and septic systems;
 - (12) Zoning information, including setbacks;
 - (13) Total acreage to be subdivided and acreage left in open spaces or for other uses;
 - (14) Property boundaries and proposed lot lines;
 - (15) Proposed road layout to meet NCDOT standards and proposed road construction standards;
 - (16) Proposed road names;
 - (17) Existing topography showing contour intervals of ten feet;
 - (18) Existing public roads and accesses within 400 feet of the property;
 - (19) Existing railroads and bridges;
 - (20) Utility easements;
 - (21) Floodplain, public water supply watershed, and soil type information; and
 - (22) Watercourses, ponds, streams, etc.
- (C) *Technical review committee review.* Upon receipt of the requisite copies of the proposed sketch plan, the planning director shall schedule a meeting of the technical review committee (TRC) to review the sketch plan. Following its review, the TRC shall provide its recommendations to the planning director. If the planning director determines that the sketch plan is incomplete, the planning director shall notify the applicant of the deficiencies.
- (D) *Planning director approval.* The planning director shall review the sketch plan and the findings and recommendations of the TRC, and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the sketch plan.
- (1) If the planning director grants the conditional approval of the sketch plan, the conditions and reasons thereof shall be stated in writing.
 - (2) If the planning director disapproves of the sketch plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this ordinance with which the plan does not comply. If a sketch plan is disapproved by the planning director, the applicant may appeal the decision by requesting that the sketch plan be scheduled for review by the planning board according to the same review and approval procedures set forth in section 10-3.3 for development plans.



- (3) If the planning director approves the sketch plan, the developer is authorized to proceed with the preparation of a development plan.
- (4) If the planning director fails to render a recommendation on the sketch plan within 30 days from the date that the plan is initially submitted to the planning director, the developer may proceed with the preparation of a development plan.

10-3.3. *Development plan review and approval procedures.*

- (A) *Conformance with sketch plan.* The development plan shall conform substantially to the approved sketch plan. If the submitted development plan deviates in its overall design from the approved sketch, or if the applicant requests a waiver from any of the standards of this ordinance, the planning director shall schedule the development plan to be reviewed by the technical review committee and planning board. Such review shall follow the same review and approval procedures set forth in section 10-3.2 for sketch plans.
- (B) *Submission/notice requirements.* The applicant for development plan approval shall submit, at least 20 days prior to the regularly scheduled planning board meeting at which the plat will be considered, five prints of the proposed subdivision. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equals not more than 100 feet. The applicant shall also submit any required application forms and any required fee.

Notice of the planning board meeting at which the development plan will be reviewed shall be provided in accordance with section 10-1.2 (C).

- (C) *Development plan contents.* The development plan shall contain the following information:
 - (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Edgecombe County Registry;
 - (2) The name of the subdivision owner or owners;
 - (3) The township, county and state where the subdivision is located;
 - (4) The name of the surveyor and the surveyor's registration number and the date of survey;
 - (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
 - (6) All of the additional information required by G.S. 47-30, G.S. 39-32.3, and appendix 1 [of this appendix B].
- (D) *Technical review committee review and recommendation and approval by the planning board.*



Upon receipt of the requisite copies of the proposed development plan, the planning director shall schedule a meeting of the technical review committee (TRC) to review the plan. The TRC shall review the development plan and any other reports or recommendations pertaining to the plan and shall recommend approval, approval with conditions, or disapproval of the development plan to the planning board.

- (1) If the planning board authorizes the conditional approval of the development plan, the conditions and reasons thereof shall be stated in writing.
- (2) If the planning board disapproves the initial development plan and plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of the ordinance with which the plan does not comply. Upon disapproval of the initial development plan and plat, the developer may within 30 days submit a revised plan and plat and/or supplemental materials pertinent to the proposed plan and plat. If the planning board shall finally disapprove the revised plan and plat, the developer, within 30 days following the date of such final disapproval, may request the planning director to forward the development plan and plat to the Edgecombe County Board of Commissioners for its review. The board of commissioners, after its review, shall either conditionally approve, disapprove, or approve the development plan and plat which shall constitute final administrative action. In the case of disapproval, the Developer may appeal the decision pursuant to G.S. 153A-340(f).
- (3) If approval is granted, written confirmation shall be made on two copies of the development plan. One copy of the approved development plan shall be returned to the applicant. Approval of the development plan is authorization for the applicant to proceed with the construction of the necessary improvements. Development plan approval shall be valid for a period of 12 months from the date of approval of the plan by the planning board unless a longer time period is established under the vested rights provisions (section 4-15). Development plans whose approval has elapsed shall be resubmitted in accordance with section 10-3.3 (B).

If the planning board fails to render a recommendation on the development plan within 60 days from the date that the plan is initially reviewed by the planning board, the planning director shall forward the application to the board of commissioners for its review and approval. In such case, the board of commissioners shall grant conditional approval, disapprove, or approve the development plan.

10-3.4. *Final plat review and approval procedures.*

- (A) *Conformance with development plan.* The final plat shall conform substantially to the approved development plan. If the submitted final plat deviates in its overall design from the approved development plan, or if the applicant requests a waiver from any of the standards of this ordinance, the planning director shall schedule the final plat to be reviewed by the technical review committee and planning board. Such review shall follow the same review and approval procedures set forth in section 10-3.3 for development plans.



- (B) *Submission requirements.* The applicant for final plat approval shall submit to the planning director a final plat made of material and of a size that will be acceptable to the Edgecombe County Register of Deeds Office for recording purposes. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one inch equals not more than one hundred feet. The applicant shall also submit five prints of the plat as well as any required application forms and any required fee.
- (C) *Final plat contents.* The final plat shall contain the following information:
- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Edgecombe County Registry;
 - (2) The name of the subdivision owner or owners;
 - (3) The township, county and state where the subdivision is located;
 - (4) The name of the surveyor and the surveyor's registration number and the date of survey;
 - (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
 - (6) All of the additional information required by G.S. 47-30, G.S. 39-32.3, and appendix 1 [of this appendix B]; and
 - (7) All of the applicable certificates required in appendix 2 [of this appendix B].
- (D) *Planning director approval.* The planning director shall approve the final plat unless the planning director finds that the plat fails to comply with one or more of the requirements of this ordinance or that the final plat differs substantially from the plans and specifications approved for the development plan. If the final plat is disapproved by the planning director, the applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this ordinance with which the plat does not comply.

When the final plat is approved by the planning director, a signed written certification to this effect shall be entered on the face of the plat in accordance with the requirements of appendix 2 [of this appendix B].

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



- (E) *Required improvements.* No final plat shall be approved until all required improvements have been installed and approved or appropriate surety has been provided as set forth in section 10-6.
- (F) *Appeals From the decision of the planning director on final plats.* If a final plat is disapproved by the planning director, the applicant may appeal the decision by requesting that the final plat be scheduled for review by the planning board according to the same review and approval procedures set forth in section 10-3.3 for development plans.

Sec. 10-4. Recordation of final plats.

10-4.1. *Final plat recording required.* Within 30 days of approval of the final plat, the zoning administrator or other designated staff member of the department of planning and inspections shall record the final plat in the office of the register of deeds. All recording fees shall be paid by the subdivider.

10-4.2. *Dedication and acceptance.*

- (A) **Rights-of-way and easements.** The approval and recordation of a final plat does constitute an offer to dedicate but does not constitute dedication to and acceptance for maintenance responsibility by the county or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards.
- (B) **Open space.** Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the county. The offer may be accepted by the county through:
 - (1) Express action by the board of commissioners;
 - (2) Express action by an administrative officer designated by the board of commissioners; or
 - (3) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the county at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

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

10-4.3. *Permits and certificates of occupancy.* Unless otherwise provided in this ordinance, upon recordation of the final plat, the applicant shall be eligible to apply for building and any other permits required



by this ordinance. No certificates of occupancy shall be issued until all improvements are complete and approved by NCDOT and the applicable utility provider.

Sec. 10-5. Owners' associations.

10-5.1. Establishment of owners' association.

- (A) *Creation.* An owners' association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.
- (B) *Conveyance.* Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the owners' association in which all owners of lots in the development shall be members. All areas other than public road rights-of-way, other areas dedicated to the county, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the owners' association.
- (C) *Subdivision or conveyance of common area.* Common areas shall not be subsequently subdivided or conveyed by the owners' association unless a revised development plan and a revised final plat showing such subdivision or conveyance have been submitted and approved.
- (D) *Owners' association not required.* Developments involving only two units attached by a party wall shall not be required to have common areas or an owners' association. Developments with only two units attached and not having an owners' association shall have an agreement between owners concerning maintenance of party walls.

10-5.2. Submission of owners' association declaration. Prior to or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed bylaws of the owners' association containing covenants and restraints governing the association, plats, and common areas. The submitted documents shall be reviewed by the county attorney and a recommendation made to the board of commissioners as to their sufficiency. The restrictions shall include provisions for the following:

- (A) *Existence before any conveyance.* The owners' association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.
- (B) *Membership.* Membership in the owners' association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.
- (C) *Owners' association declaration.*
 - (1) *Responsibilities of owners' association.* The owners' association declaration shall state that the association is responsible for:



- (a) The payment of premiums for liability insurance and local taxes;
 - (b) Maintenance of recreational and/or other facilities located on the common areas;
and
 - (c) Payment of assessments for public and private improvements made to or for the benefit of the common areas.
- (2) *Default of owners' association.* Upon default by the owners' association in the payment to the county of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay to the county a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the county by the total number of lots in the development. If the sum is not paid by the owner within 30 days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The county may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.
- (3) *Powers of the association.* The owners' association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the owners' association for the items set forth in this section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.
- (4) *Easements.* Easements over the common areas for access, ingress, and egress from and to public roads and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
- (5) *Maintenance and restoration.* Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.
- (D) *Nonresidential condominiums.* If the condominium is a nonresidential condominium, the declaration shall contain the following provision:

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



required by this ordinance.

Sec. 10-6. Sureties or improvement guarantees.

10-6.1. Agreement and security.

(A) *Financial guarantee in lieu of immediate installation for approval.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the county may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved if all other requirements of this ordinance are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the costs of the uncompleted improvements:

(1) *Surety performance bond(s).*

- (a) The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in North Carolina.
- (b) The bond shall be payable to Edgecombe County and shall be in an amount equal to 150 percent of the entire estimated cost, as approved by the county, of installing all uncompleted improvements. Developers must submit a request for bonding including a detailed construction cost estimate upon submission of the final plat.
- (c) The bond amount and term shall be as approved by the planning director upon recommendation of the NCDOT and other consultants as deemed necessary.
- (d) The county attorney shall review the submitted bond and make a recommendation regarding its sufficiency to the planning director.

(2) *Cash or equivalent security.*

- (a) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the county or in escrow with a financial institution. The amount of deposit shall be equal to 150 percent of the entire estimated cost, as approved by the county, of installing all uncompleted improvements.
- (b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the county an agreement between the financial institution and himself guaranteeing the following:
 - (i) That said escrow account shall be held in trust until released by the county and may not be used or pledged by the developer in any other matter



during the term of the escrow; and

(ii) That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the county, immediately pay the funds deemed necessary by the county to complete the improvements, up to the full balance of the escrow amount, or deliver to the county any other instruments fully endorsed or otherwise made payable in full to the county.

(c) All instruments shall be reviewed by the county attorney and a recommendation regarding their sufficiency made to the planning director.

(B) *Duration of financial guarantees.*

(1) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed one year.

(2) All developments whose improvements are not completed and accepted fourteen days prior to the expiration of the financial guarantee shall be considered to be in default. Said guarantee may be extended with the consent of the county, if such extension takes place prior to default.

(C) *Default.*

(1) Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the county, pay all or any portion of the bond or escrow fund to the county up to the amount deemed necessary by the county to complete the improvements. Upon payment, the county shall expend such funds or portion thereof to complete all or any portion of the required improvements. The county shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.

(2) Release of guarantee security. The county may release a portion or all of any security posted as the improvements are completed and approved by the county.

Sec. 10-7. Subdivision standards.

10-7.1. *General.*

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

(B) *Development name.* In no case shall the name of a proposed development duplicate or be



phonetically similar to an existing development name in Edgecombe County unless the proposed development lies adjacent or in proximity to the existing development.

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

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

10-7.2. *Lot dimensions and standards.* The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and shall conform to the following:

- (A) *Conformance to other regulations.* Every lot shall have sufficient area, dimensions, and road access to permit a principal building to be erected thereon in compliance with all zoning and other requirements of this ordinance.
- (B) *Minimum building area.* Every lot shall have at least 40 percent of its total area, or 3,000 square feet, whichever is less, of contiguous buildable area of a shape sufficient to hold a principal building. Said area shall lie at or be filled to an elevation at or above the 100-year flood elevation. (Note: article XII or federal wetlands regulations will prohibit or restrict fill placement in certain locations.)
- (C) *Lot line configuration.* Side lines of lots should be at or near right angles or radial to road lines. No intersecting lot lines shall have an angle of less than 60 degrees.
- (D) *Lot lines and drainage.* Lot boundaries shall coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways.
- (E) *Lots on roads with capacity deficiencies and on major thoroughfares.* Subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads that have, in the opinion of the NCDOT and the technical review committee, capacity deficiencies that warrant the prohibition of the platting of lots with direct vehicular access.

Whenever a proposed subdivision abuts any principal arterial, minor arterial, major collector, or minor collector (as delineated on the latest adopted thoroughfare plan), the planning board may prohibit the platting of lots with direct vehicular access to such roads. The planning board's decision to require alternative access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise.



- (F) *Access requirements.* All lots must have public road access and frontage meeting the requirements set forth in article IX (zoning). The following exceptions may be approved:
- (1) Lots and units located in developments with owners' associations or in group developments in which permanent access is guaranteed by means of approved private roads and/or drives designed in accordance with the requirements of section 10-7.3(G).
 - (2) Lots of record provided there is recorded access and the use is limited to only one single-family dwelling and its inhabitable accessory structures.
 - (3) Flag lots meeting the following requirements:
 - (a) A flag lot shall contain only one single-family dwelling and its unhabitated accessory structures;
 - (b) The maximum flagpole length shall be 300 feet;
 - (c) The minimum flagpole width shall be 25 feet;
 - (d) The maximum lot size in areas with public sewer shall be one acre. The maximum lot size without public sewer shall be three acres. (Note: the "flagpole" portion of the lot is not used to calculate area, width, depth, coverage, and setbacks of the lot or to provide off-street parking);
 - (e) The minimum separation between the "flagpole" portion of the lot and that of another flag lot shall be 150 feet;
 - (f) Where public sewer is available, occupied buildings on the flag lot shall have a gravity service line, or the sewer pump requirements shall be noted on the plat; and
 - (g) Use of a single driveway to serve a flag lot and an adjoining conventional lot is permitted and encouraged. The preferred location for the driveway is on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole.
- (G) *Water and sewage disposal.* Every subdivision lot intended for building purposes shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable health regulations.
- (H) *Ingress and egress requirements.* To the extent feasible, subdivisions containing 20 or more lots shall have at least two means of ingress and egress from a public street so as to afford emergency and maintenance vehicles reasonable access to the properties in the subdivision.



If such access is not feasible at the time the subdivision is developed but may become feasible at a later date when adjoining property is developed, then the street system serving the subdivision shall be extended to the property line of the tract that is being subdivided at the point where a future connection is anticipated so that a second point of access can be provided at a later time.

If the subdivision contains less than 20 lots, but the remainder tract is such that it could potentially accommodate 20 or more lots, then the planning board may require one or more strips of land to be reserved for future access.

10-7.3. *Roads.*

- (A) *Conformance with thoroughfare plans.* The location and design of roads shall be in conformance with any applicable, adopted thoroughfare plan. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum road standards may be required.
- (B) *Conformance with adjoining road systems.* The planned road layout of a proposed subdivision shall be compatible with existing or proposed roads and their classifications on adjoining or nearby tracts.
- (C) *Access to adjoining property.*
 - (1) Where, upon recommendation of the planning board and the approval of the board of commissioners, it is desirable to provide for road access to adjoining property, proposed roads shall be extended and constructed to the boundary of such property.
 - (2) When rear property is landlocked, the subdivider shall be required to provide an access easement for a future road to access such property. The subdivider shall grant an easement for the road to the benefit of the adjacent property. The easement shall:
 - (a) Be labeled "reserved for future road," and must have setbacks on that side treated as a road setback; and
 - (b) Give the current and future owner(s) of the adjacent property the right to construct the road as either a public or private road and to dedicate the easement as a public or private road right-of-way if the road is constructed as a public or private road; and
 - (c) Run over land suitable to be constructed as a public or private road, as evidenced by study of a registered soil scientist or licensed engineer; and
 - (d) Have a width sufficient to allow the construction of a public or private road meeting the standards of the UDO.
- (D) *Reserve strips.* Reserve strips adjoining road rights-of-way for the purposes of preventing access to adjacent property shall not be permitted under any condition.



- (E) *Road classification.* The final determination of the classification of roads in a proposed subdivision shall be made by the county.
- (F) *Public road design criteria.* Public roads shall be designed in accordance with the North Carolina Department of Transportation (NCDOT) Subdivision Roads; Minimum Construction Standards. When a municipality providing the proposed subdivision with utility service(s) requires that its public road standards be adhered to and where those standards exceed the NCDOT road standards, the municipality's road standards shall be complied with.
- (G) *Private road design criteria.*
 - (1) *Where permitted.* Private roads shall be permitted in developments with owners' associations and in group developments, provided that the minimum lot sizes of a proposed subdivision are no less than 30,000 square feet, and that the proposed private road serve no more than four lots.
 - (2) *Minimum design and construction.* Private streets shall comply with the minimum NCDOT Construction Standards for subdivision roads except as expressly permitted in this subsection.

The area of the private road right-of-way provided for travel shall either be stoned or paved. In the event that a stone surface is applied, it shall be crusher run compacted to a minimum depth of six inches. In locations where soil conditions require additional stone to attain a stable road bed, the developer shall add the required amount of stone before procuring approval of the final plat. Paved private streets shall be designed by a professional engineer or a registered land surveyor.

All private streets shall have a minimum right-of-way width of 50 feet. The minimum travel width shall be 12 feet for private streets that provide access to no more than three dwellings and 18 feet for private streets that provide access to four or more dwellings.

The design of stormwater drainage systems shall be prepared by a professional engineer or a registered land surveyor and recommendations made to the planning board.

- (3) *Owners' associations required.* An owners' association is required to own and maintain all private roads allowed under this ordinance. All private roads will be indicated as such on the plat.
- (4) *Private through roads.* No through road in a residential area connecting two public streets can be designated as a private road, unless approved by the board of commissioners.
- (5) *Connections to public roads.* All private roads, connecting with public roads, require an approved driveway application from the NCDOT.
- (6) *Sidewalks.* In the event sidewalks are constructed, the minimum width shall be four feet.



- (7) *Disclosure statement.* A disclosure statement in accordance with G.S. 136-102.6 shall be recorded simultaneously with the plat and referenced on the final plat. The disclosure statement must contain the provision(s) for construction and/or maintenance of the private road. See appendix A-2-2 (H)[of this appendix B].
- (H) *Intersecting road angle.*
- (1) All roads shall intersect at or as near to 90 degrees as possible, but in no case shall the angle of intersection be less than 75 degrees.
 - (2) All roads crossing natural areas, wetlands, or stream buffers must cross at or as near to 90 degrees as possible within topographic limits.
- (I) *Minimum block length and maximum cul-de-sac length.* The minimum block length shall be 400 feet. The maximum distance from an intersecting through road to the end of a cul-de-sac shall be 1,000 feet, except where, upon the recommendation of the planning board and the approval of the board of commissioners, existing conditions warrant a modification of this requirement.
- (J) *Minimum road offset.* Where roads are offset, the centerlines shall be offset no less than 150 feet.
- (K) *Curb and gutter.* Curbs and gutters, if provided, shall be constructed in conformance with the design criteria of the NCDOT.
- (L) *Temporary turnarounds.* Roads stubbed to adjoining property or phase lines may be required to have a temporary turnaround at the end of the road which will be sufficient to permit service vehicles to turn around.
- (M) *Grades at intersections.* The grade on stop roads approaching an intersection shall not exceed five percent for a distance of not less than 100 feet from the centerline of the intersection, unless topographical conditions dictate otherwise.
- (N) *Sight distance easements.* Triangular sight distance easements shall be shown in dashed lines at all road intersections and so noted on the subdivision plat. These easements will remain free of all structures, trees, shrubbery, and signs, except utility poles, fire hydrants, and traffic control signs. The location and extent of sight distance easements will be determined by the NCDOT.
- (O) *Road names.* Roads which are obviously in alignment with existing roads shall generally bear the name of the existing road. Road names shall not duplicate or closely approximate phonetically the names of existing roads in Edgecombe County. Road suffixes and addresses shall conform to the standards established by Edgecombe County.
- (P) *Road name and traffic control signs.* Road name and traffic control signs which meet Edgecombe County and NCDOT specifications shall be placed at all road intersections. The developer shall purchase all road signs through the county according to a fee schedule



established by the board of commissioners. The developer shall be responsible for installing all traffic control signs. The maintenance of signs on private roads, drives, or lanes shall be the responsibility of the owner or of an owners' association, as applicable.

10-7.4. *Road and utility construction.*

- (A) *Plans.* Construction plans for all road facilities shall be submitted to the NCDOT before development plan approval. Construction plans for all water and sanitary sewer facilities shall be submitted to the appropriate utility provider before development plan approval. For each subdivision section, the road and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.
- (B) *No construction without plan approval.* No road improvements shall be constructed until the road construction plans have been reviewed and approved by the NCDOT. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider.
- (C) *Inspection.* Work performed pursuant to approved road and utility construction plans shall be inspected and approved by the NCDOT and the appropriate utility provider.
- (D) *Wet detention ponds and soil erosion and sedimentation control devices installation.* Any approved wet detention pond(s) and soil erosion and sedimentation control device(s) may be installed prior to approval of road and utility construction.
- (E) *Public water and sewer construction requirements.* Water and sewer lines, connections, and equipment shall be constructed in accordance with state and local regulations and to the standards and specifications of the utility provider.
- (F) *Water and sewer connection.* Connection of each lot to public water and sewer utilities shall be required if the proposed subdivision is within 300 feet of the nearest adequate lines of a public system, provided that no geographic or topographic factors would make such connection infeasible or that a specific waiver of this requirement is granted by the board of commissioners. Where public sewer is not available, lots shall be evaluated, at the developer's expense, in accordance with Laws and Rules for Sanitary Sewage Collection, Treatment, and Disposal 15 A NCAC 18 A 1990. Approval of each lot by the Edgecombe County Health Department or approval of a soils report prepared for the Edgecombe County Health Department shall be obtained prior to development plan approval. Approval of each lot by the Edgecombe County Health Department shall be obtained prior to final plat recordation. The final plat shall show lot(s) denied or not evaluated crosshatched and labeled "NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT."
- (G) *Utility and drainage easements.*
 - (1) Easements shall be provided for electrical, telephone, natural gas, cable television, water,



and sewer utilities where necessary to serve every platted lot. The developer and the utility provider(s) shall agree on the location and the width of the easements. Any easements for subsurface sewage disposal systems shall be delineated on the final plat and described by bearings and distances.

- (2) The developer shall transfer to the applicable utility provider the necessary ownership or easement rights to enable the utility provider to operate and maintain the utility facilities. In addition, the developer shall dedicate sufficient easement rights to accommodate the extension of utility service to adjacent or nearby properties whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments.
- (3) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose of drainage. Parallel roads may be required in connection therewith.
- (4) Lakes, ponds, creeks, and similar areas will be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The acceptance of such dedicated areas must be approved by the planning board before the board of commissioners will consider accepting it.

(H) *Stormwater management.*

- (1) An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.
- (2) The storm drainage system shall follow existing topography as nearly as practical, shall divert stormwater away from surface waters, and shall incorporate stormwater best management practices to minimize adverse water quality impacts.
- (3) Subdivisions located within a watershed protection overlay district that utilize the high density option shall comply with the stormwater management requirements of section 12-1.12.
- (4) Where applicable, riparian buffers shall be maintained in accordance with the provisions of section 12-3.3.
- (5) A stormwater management plan and stormwater maintenance agreement shall be submitted as required by section 12-3.4.



10-7.5. *Blocks.*

- (A) Intersecting streets shall be laid out at such intervals that block lengths are not more than 1,800 feet nor less than 400 feet except where, upon the recommendation of the planning board and the approval of the board of commissioners, existing conditions justify a modification of this requirement.
- (B) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or nonresidential uses.
- (C) Pedestrian ways or crosswalks, not less than ten feet in width, shall be provided near the center and entirely across any block 1,800 feet or more in length or at the end of culs-de-sac, where deemed essential, in the opinion of the planning board, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, transportation or other similar facilities.

10-7.6. *Buffer areas.*

- (A) In residential districts, a buffer strip at least 50 feet in depth, in addition to normal lot depth required, shall be provided adjacent to all railroads and limited access highways. This strip shall be a part of the platted lots and shall have the following notation lettered on the face of the plat: "This strip is reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited."
- (B) A minimum 100-foot vegetative buffer is required for all new subdivisions located within a watershed protection overlay district that utilize the high density development option authorized by section 12-1.11; otherwise, a minimum 30-foot vegetative buffer is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.
- (C) Where applicable, riparian buffers shall be maintained in accordance with the provisions of section 12-3.3.
- (D) Additional buffer area requirements are delineated in sections 11-3 and 12-7.

10-7.7. *Sites for public uses.* In subdividing property, due consideration shall be given by the developer to the reservation of suitable sites for school and other public uses in accordance with G.S. 153 A-331.

10-7.8. *Placement of monuments.* The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing monuments.

10-7.9. *Flood standards pertaining to subdivisions.* Proposed subdivisions in flood hazard overlay



districts shall comply with the requirements of section 12-2.

10-7.10. *Dedication of greenway, open space, and recreational lands for public use.*

- (A) *Land set aside for public recreational use.* The following standards shall apply to new subdivisions. All actions by the governing body under this section must also be consistent with the provisions of the state enabling legislation.

Applicants for new residential developments involving ten or more dwelling units shall be required to set aside five percent of their gross tract acreage as undivided recreational land designated for the recreational usage by the residents of the proposed subdivision. If land is set aside in this manner for private recreational use, it shall also be permanently protected through a conservation easement enforceable through a recorded homeowner's association agreement. Such land shall be suitable for active and/or passive recreation.

(Ord. of 9-13-2004(2); Ord. of 6-5-2006(3), § 1)

Sec. 10-8. Waivers.

10-8.1. *Approval authority.* The board of commissioners may approve waivers to standards in this article except as noted in section 10-8.4.

10-8.2. *Grounds for waivers.* The board of commissioners may waive standards in this article under one of the following circumstances:

- (A) *Physical hardship.* Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this article would cause unusual and unnecessary hardship on the subdivider.
- (B) *Equal or better performance.* Where in its opinion a waiver will result in equal or better performance in furtherance of the purposes of this ordinance.
- (C) *Unintentional error.* Where through an unintentional error by the applicant, his agent, or the reviewing staff, there is a minor violation of a standard in this article, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

10-8.3. *Conditions.* In granting waivers, the board of commissioners may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

10-8.4. *Waivers affecting subdivisions in watershed protection overlay districts.* Any waiver which would have the effect of waiving or relaxing any of the watershed protection management requirements delineated in section 12-1.9 shall follow the procedural requirements of section 7-2.3(B).

10-8.5. *Waivers affecting subdivisions in flood hazard overlay districts.* Any waiver which would have the effect of waiving or relaxing any of the flood hazard overlay requirements delineated in section 12-2 shall



follow the procedural requirements of section 7-2.2.
(Ord. of 10-4-2004(1), § 5)

Sec. 10-9. Modifications.

Modifications to approved development plans shall be made in accordance with the requirements of section 4-12.

ARTICLE XI.

DEVELOPMENT STANDARDS

Sec. 11-1. Signs.

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

All signs except those specifically listed in section 11-1.3 shall be erected, installed, or modified only in accordance with a duly-issued and valid sign permit issued by the zoning administrator. Sign permits shall be issued in accordance with the requirements and procedures of article IV, permits and procedures, and the submission requirements of appendix 1 [of this appendix B]. If plans submitted for a zoning, special use, or conditional use permit include sign plans in sufficient detail that the permit issuing authority can determine whether the proposed sign(s) comply with the provisions of this section, then issuance of the requested zoning, special use, or conditional use permit shall constitute approval of the proposed sign(s).

11-1.1. *Definitions.* Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section should have the meaning indicated when used throughout section 11-1.

- (A) *Sign.* Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, or tradenames or trademarks by which anything is known (including any surface, fabric or other material or structure designed to carry such devices such as are used to designate or attract attention to an individual, firm, an association, a corporation, a profession, a business, or a commodity or product) which are exposed to public view and used to attract attention.
- (B) *Advertising signs (billboards).* A sign which publicizes and directs attention to a business, profession, commodity, activity, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located.
- (C) *Animated sign.* Any sign which flashes, revolves, rotates or swings by mechanical means, or which uses a change of lighting to depict action, or to create a special effect or scene.



- (D) *Banner.* A temporary sign of light weight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more edges. National, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- (E) *Building marker.* A sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface, or made of bronze or other permanent material.
- (F) *Canopy sign.* Any sign which is a part of or attached to an awning, canopy or other fabric-like or plastic protective structure which is extended over a door, window, or entranceway. A marquee is not a canopy.
- (G) *Commercial message.* Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. This definition does not include company nameplates or logos on instructional signs.
- (H) *Construction sign.* A sign on a construction site during the period of construction on which is printed or written the name of the owner, developer, contractor, architect, planner, engineer, or development title.
- (I) *Electronically controlled message sign.* A sign on which the copy changes automatically on a lampbank, such that the message or display does not run continuously in the travel mode, and any message or display remains stationary for a minimum of two seconds. Any sign on which the message or display runs continuously in the travel mode and/or on which any message or display does not remain stationary for a minimum two seconds shall be considered a flashing sign.
- (J) *Flashing sign.* A type of animated sign which contains an intermittent, blinking, scintillating, or flashing light source, or which includes the illusion of intermittent or flashing light, or an externally mounted intermittent light source. An electronically controlled message sign is not a flashing sign.
- (K) *Freestanding sign.* Any sign which is supported by structures or supports which are placed on, or anchored in the ground, and which structures or supports are independent from any building or other structure.
- (L) *Governmental sign.* Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
- (M) *Identification sign.* A permanent sign announcing the name of a subdivision, manufactured home park, campground/RV park, multifamily or townhouse development, planned unit development, church, school, park or quasipublic structure or facility, and uses permitted in A-1 and residential zoning districts.
- (N) *Incidental sign.* A sign which provides only information for the convenience and necessity of the



public. Company logos may be displayed on such signs but must not occupy more than 25 percent of the sign area. Incidental signs include directories, entrance, exit and other necessary directional signs.

- (O) *Menu sign.* A permanent on-premises sign located at businesses which provide drive-up or drive-through services such as fast food restaurants, banks, laundries, etc. Menu signs shall be located so as not to create vehicle stacking problems which will interfere with the flow of traffic.
- (P) *Nonconforming sign.* Any sign which does not conform to size, height, location, design, construction, or other requirements of this ordinance. The nonconformity may result from adoption of this ordinance or any subsequent amendment.
- (Q) *On-premises sign.* A sign which publicizes and directs attention to a profession, commodity, activity, product, service or entertainment conducted, sold or offered upon the premises where such sign is located. On-premises signs include pole and ground mounted signs.
- (R) *Portable sign.* A sign not permanently attached to any surface.
- (S) *Professional or occupational sign or name plate.* A sign which publicizes and directs attention to a home occupation, rural family occupation, or to a profession.
- (T) *Projecting sign.* Any sign which is end mounted or otherwise attached to an exterior wall of a building which forms an angle with said wall.
- (U) *Real estate sign.* A sign which advertises the sale, rent, or lease of property.
- (V) *Sign area.* The area of a sign shall be measured in conformance with the following:
 - (1) The area of the face of a sign shall be calculated to include the outermost part which forms the shape or display. Necessary supports and trim moldings shall not be included when calculating the area of the sign. Aprons below advertising signs shall not exceed three feet in height. Aprons serve an aesthetic function and shall not be used for any purposes other than to identify, by name, the sign company responsible for the sign.
 - (2) In computing the area of a sign, standard mathematical formulas for common regular geometric shapes (triangle, parallelogram, circle and ellipse, or combinations thereof) shall be used.
 - (3) In the case of an irregularly shaped sign or a sign with letters and/or symbols affixed to or painted, displayed or incorporated into or upon a wall, canopy, awning or decorative facade of a building, the area of the sign shall be the area within the singular continuous perimeter, outlining the limits of the writing, representation, emblem, or any figure of similar character.
 - (4) Back-to-back and V-type signs mounted so as to be connected and not spread more than



15 feet will be considered as one sign location when calculating horizontal separation between signs. Advertising signs (billboards) shall not be stacked, horizontally or vertically.

- (W) *Sign height.* The vertical distance measured from the ground elevation where the sign is located, to the highest point of the sign except as follows: When the ground elevation is different from the elevation of an adjacent road, the height of a sign shall be measured from the road elevation of the adjacent road at the edge of the pavement.
- (X) *Temporary signs.* Temporary signs are those signs which relate to such events as elections, farm auctions, yard sales, agricultural production sales, annual charitable, civic or fraternal events, horse shows, festivals, bona fide grand openings and home show openings.
- (Y) *Wall sign.* A sign which is attached to a wall or facade of a building or canopy.
- (Z) *Warning sign.* Any sign with no commercial message that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of "high voltage", "no trespassing", and similar directives.

11-1.2. *Sign standards.*

- (A) Sufficient documentation shall be submitted to the zoning administrator for review to assure that wind and stress requirements have been met prior to any permit being issued. Such documentation shall be signed and sealed by a registered North Carolina Architect or Engineer.
- (B) All signs shall be installed and maintained in compliance with the North Carolina State Building Code and the National Electrical Code and shall have appropriate permits and inspections. Electrical signs and fixtures shall bear labels of a nationally accepted testing laboratory.
- (C) All signs shall be maintained in a state of good repair and shall present a neat, well-kept appearance.
- (D) All lights used for the illumination of a sign shall be shielded so that the light will not shine directly on surrounding areas or create a traffic hazard or distraction to operators of motor vehicles on the public thoroughfares. The zoning administrator shall have the power to order a change in the illumination of any sign that becomes a hazard or a nuisance.
- (E) No illuminated sign, other than professional or occupational signs or nameplates, on-premises signs, incidental signs, or identification signs shall be permitted within 100 feet of any residential zone. Illuminated signs other than those listed above which are located within 300 feet of a residence or residentially zoned district shall not be illuminated between the hours of 12:00 midnight and 6:00 a.m.
- (F) The zoning administrator or his authorized representative shall have the authority to order the painting, repair, alteration or removal of a sign, at the expense of the owner of such sign, which



shall constitute a hazard to safety, health or public welfare by reasons of inadequate maintenance, dilapidation or obsolescence. The existence of a sign or its support structure with no message display for a period of 90 days, shall be justification to declare the sign abandoned and require its removal.

- (G) Any sign erected without proper permits or in violation of this ordinance shall be brought into compliance within 30 days of notification by the zoning administrator or said sign shall be removed immediately.

11-1.3. *Exempt signs.* The following listed signs are subject to all placement and dimensional requirements of this section and shall comply with the North Carolina Department of Transportation sight distance and road rights-of-way clearances. The following listed signs shall, however, be exempt from permit and fee requirements. Exempt signs shall be maintained in good condition and shall not constitute a hazard to safety, health or public welfare. Exempt signs which are found to be in violation shall be ordered corrected or removed.

- (A) Any warning signs; utility signs; signs for public use; and no trespassing, no hunting, or neighborhood watch signs shall contain no commercial message.
- (B) Any sign that is required by law or erected at the direction of a governmental agency including but not limited to signs erected for the purpose of promoting travel, tourism, and growth of Edgecombe County.
- (C) Signs erected to regulate traffic.
- (D) Mailboxes, house numbers, nameplates, and building markers not exceeding 4 square feet in area.
- (E) Religious symbols at a place of worship or at a church-owned or operated facility. Such symbols must meet all setbacks and lighting requirements for signs.
- (F) Construction signs having a maximum area of 32 square feet and a maximum height of six feet and limited to one sign per construction site per road frontage. Exempt construction signs must be removed within 15 days following the completion of the project.
- (G) Real estate signs having a maximum area of four square feet in residential districts and 32 square feet in other districts and a maximum height of six feet. Real estate signs are limited to one per site or one per 300 feet of road frontage.

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



project or transaction.

- (H) Temporary signs shall not be placed more than 30 days prior to the event, election or grand opening and must be removed within ten days following the event, election or grand opening. Such signs are limited to 32 square feet in area and six feet maximum height.

11-1.4. *Prohibited signs.* The following signs shall not be permitted, erected or maintained within the Edgecombe County Planning and Zoning Jurisdiction.

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

11-1.5. *Sign placement, size, height, setback, separation, clearances and construction by sign type.*

- (A) *Advertising signs (billboards).*
 - (1) Maximum height: 35 feet. (In the event that unique conditions exist on a site which render the 35-foot maximum height requirement impracticable, the board of adjustment may, upon proper finding of facts, grant a height variance not to exceed a maximum height of 50 feet.)
 - (2) Minimum separation from another billboard: 300 feet measured along the same side of the road and 300 feet radius along an intersecting or adjacent road.
 - (3) Billboards shall maintain a minimum separation of 150 feet from any residence as measured along the road beginning at a point projected perpendicular from the near side of an existing residence to the road right-of-way and 150 feet from any residential zoning district boundary.



- (a) [Three-hundred] 300 square feet in area.
 - (b) [Twelve] 12 feet in height, 25 feet in width.
 - (c) Top outs and side outs are permitted in addition to the above sign area dimensions. Top outs and side outs shall be confined to the immediate plane of the sign and may extend above and/or to the side of the sign face a maximum of two feet. Top outs and side outs shall not exceed a total of 32 square feet in area.
- (4) Minimum setback from the road right-of-way: ten feet, except at an intersection the minimum setback along the right-of-way shall be 50 feet.
 - (5) Minimum separation from other structures and side or rear property lines: 15 feet, except that a billboard shall be set back 100 feet from any residentially-zone lot.
 - (6) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
 - (7) All structures, blank surfaces, backs and supports shall be uniformly painted in a neutral finish when exposed to any road and shall be maintained in good repair.
 - (8) Minimum requirements contained within the North Carolina Outdoor Advertising Control Act (G.S. 136-126 et seq.) which are more stringent or in addition to those contained in this section shall apply.
- (B) *On-premises signs (freestanding pole or ground mounted on-premises signs).*
- (1) Maximum height: 35 feet.
 - (2) Maximum sign Size: 200 square feet of sign area per adjoining public road frontage. Maximum sign size is a cumulative total and shall not exceed 300 square feet in area when multiple displays are used on a single support.
 - (3) Maximum number of freestanding or ground mounted on-premises signs per parcel: one sign per adjoining public road frontage.
 - (4) Minimum separation from rights-of-way, property lines and structures: ten feet.
 - (5) Minimum separation from utility lines shall be in compliance with the requirements of the utility having jurisdiction.
 - (6) No unfinished surfaces or structures shall be exposed on-premises signs.
- (C) *Wall signs (including canopy, awning and building facade signs).*



- (1) Maximum area: one square foot of sign area per linear foot of building, canopy or awning per building side. Sign footage permitted per building side may not be used on other than that building side (no transfers or cumulative totals).
 - (2) Minimum guaranteed wall signage area at any individual premises is 32 square feet.
 - (3) The maximum projection of a wall sign shall not exceed 12 inches.
 - (4) The height of a wall sign shall not exceed the height of the building or canopy facade.
- (D) *Professional or occupational name plates and incidental signs.*
- (1) Maximum sign area: six square feet.
 - (2) Maximum height: 30 inches if ground mounted, signs in this category may also be mounted against the structure.
 - (3) Minimum setback from all property lines: two feet.
 - (4) Maximum number of signs per business establishment: one.
- (E) *Identification signs.*
- (1) Maximum sign area: 32 square feet.
 - (2) Maximum height: six feet.
 - (3) Minimum setback: ten feet from all property lines.
 - (4) Maximum number of signs per adjoining road frontage: one.
- (F) *Menu signs.*
- (1) Maximum sign area: 45 square feet.
 - (2) Maximum height if ground mounted: eight feet.
 - (3) Minimum setback from all property lines: ten feet.
 - (4) Maximum number of signs per business establishment: one.

Table 11-1-1 Table of Permitted Signs By Type of Sign

Sign Type	A-1	Residential	OI	B-1	B-2	M-1	M-2
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Advertising Signs (Billboards)*				X	X	X	X
On-Premises			X	X	X	X	X
Wall Sign			X	X	X	X	X
Professional or Occupational Nameplate, Incidental	X	X	X	X	X	X	X
Identification	X	X	X	X	X	X	X
Menu			X	X	X	X	X
Construction	X	X	X	X	X	X	X
Real Estate	X	X	X	X	X	X	X
Temporary	X	X	X	X	X	X	X
Exempt	X	X	X	X	X	X	X

Notes:

X = Indicates permitted.

Blank = Indicates not permitted.

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

11-1.6. *Nonconforming signs.* It is the intent of this ordinance to permit signs that were lawful before the effective date of this ordinance to remain in service. Specific provisions regarding nonconforming signs are delineated in section 6-7.

(Ord. of 9-12-2005, § 1)

Sec. 11-2. Off-street parking, stacking, and loading areas.

11-2.1. General requirements.

- (A) *Parking, stacking and loading space required.* When any building or structure is erected, modified, enlarged or increased in capacity, or any open use is established, modified or enlarged, the requirements of this section shall be met. For enlargements, modifications, or increase in capacity, the requirements of this section shall apply only to such enlargements, modifications or increases in capacity.
- (B) *Required number.* The minimum number of required off-street parking, stacking and loading spaces is indicated in section 11-2.3 (parking and stacking areas) and section 11-2.7 (loading areas). In cases of mixed occupancy, the minimum number of off-street parking, stacking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.
- (C) *Handicapped spaces.* Spaces for the physically handicapped shall be provided as required by the



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- (D) *Minimum required.* In all instances where off-street parking is required, except for residential uses, a minimum of five parking spaces shall be provided.
- (E) *Reduction of minimum requirements.* Unless there is a change in use requiring fewer spaces, the number of spaces shall not be reduced below the minimum requirements of this ordinance.
- (F) *Maintenance.* All parking, stacking and loading facilities shall be permanently maintained by the owners or occupants as long as the use they serve exists.
- (G) *Access.* All parking, stacking and loading facilities shall have vehicular access to a public street or approved private street.
- (H) *Use for no other purpose.* Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. If such land is devoted to any other purpose, the certificate of occupancy of the affected principal use shall immediately become void.
- (I) *Compliance with air quality standards.* The construction of or modification to (i) open parking lots containing 1,500 or more spaces or (ii) parking decks and garages containing 750 or more spaces shall comply with the concentrated air emissions standards of the NC Division of Environmental Management.

11-2.2. *Parking requirements for change in use.* If a change in use causes an increase in the required number of off-street parking, stacking or loading spaces, such additional spaces shall be provided in accordance with the requirements of this ordinance; except that if the change in use would require an increase of less than five percent in the required number of parking spaces, no additional off-street parking shall be required.

11-2.3. *Number of parking and stacking spaces required.*

- (A) The minimum number of required off-street parking and stacking spaces is indicated in table 11-2-1.
- (B) Whenever the number of parking spaces required by table 11-2-1 results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.
- (C) For any use not specifically listed in table 11-2-1, the parking and stacking requirements shall be those of the most similar listed use, as determined by the zoning administrator.
- (D) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.



- (E) The board of commissioners recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in table 11-2-1 may result in a development either with inadequate parking space or parking space far in excess of its needs. Therefore, the permit-issuing authority may permit deviations from the requirements of table 11-2-1 and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the general standard delineated in subsection (D). The permit-issuing authority may allow deviations, for example, when it finds that a residential development is irrevocably oriented toward the elderly, disabled or other population that demonstrates a lesser parking need or when it finds that a business or service is primarily oriented to walk-in trade. Whenever the permit-issuing authority allows or requires a deviation from the requirements of table 11-2-1, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

Table 11-2-1

Off-Street Parking and Stacking Requirements

USE		SPACES REQUIRED
Residential Uses		
1)	Boarding and rooming house; bed & breakfast	1/bedroom plus 2/3 employees on the largest shift
2)	Congregate care, family care, or group care facilities	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
3)	Multi-family dwellings (including condominiums)	
	0 to 1 bedroom units	1.50/unit
	2 bedroom units	1.75/unit
	3 or more bedroom units	2.00/unit
4)	Homeless shelter	1/resident staff member, plus 2/3 nonresidential staff members and/or volunteers on the largest shift, plus 1/each vehicle used in the operation
5)	Single-family detached & two-family dwellings; manufactured homes; townhouse dwellings; manufactured home parks	2/dwelling unit on the same lot
Accessory Uses		
1)	Accessory dwelling unit	1/attached unit, 2/detached unit
2)	Caretaker dwelling	2/unit
3)	Home & rural family occupations	1/each non-resident employee
Recreational Uses		
1)	Amusement parks; fairgrounds; skating rinks	1/200 square feet of activity area
2)	Athletic fields	25/field



3)	Auditorium; assembly hall; convention center; stadium	1/5 persons based upon the design capacity of the building
4)	Batting cages, golf driving ranges; miniature golf; shooting ranges	1/cage, tee, or firing point
5)	Billiard parlors; tennis courts	3/table or court
6)	Bowling centers	4/lane
7)	Clubs; coin-operated amusement; physical fitness centers and similar indoor recreation	1/200 square feet of gross floor area
8)	Riding academy	1/2 stalls
9)	Go-cart raceways	1/go-cart plus 1/employee on the largest shift
10)	Recreational vehicle park or campground	See section 11-4.63
11)	Swimming pools, swim clubs	1/100 square feet of water and deck space
Educational and Institutional Uses		
1)	Ambulance services; fire stations; law enforcement stations	1/employee on the largest shift
2)	Churches	1/4 seats in main chapel
3)	Colleges and universities	7/classroom plus 1/4 beds in main campus dorms plus 1/250 square feet of office space plus 1/5 fixed seats in assembly halls and stadiums
4)	Correctional institutions	1/10 inmates plus 2/3 employees on largest shift plus 1/vehicle used in the operation
5)	Elementary and middle schools	3/room used for offices plus 3/classroom
6)	Government offices; post offices	1/150 square feet of public service area plus 2/3 employees on largest shift
7)	Hospitals	1/4 in-patient or out-patient beds plus 2/3 employees on largest shift plus 1/staff doctor
8)	Libraries; museums and art galleries	1/450 square feet of gross floor area for public use plus 2/3 employees on the largest shift
9)	Nursing and convalescent homes	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in the operation
10)	Senior high schools	3/room used for offices plus 7/classroom
Business, Professional and Personal Services		
1)	Automobile repair services	3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on the largest shift



2)	Banks and financial institutions	*1/200 square feet gross floor area plus stacking for 4 vehicles at each drive-through window or automatic teller machine
3)	Barber and beauty shops	3/operator
4)	Car washes	
	a) Full-service	*stacking for 30 vehicles or 10/approach lane, whichever is greater plus 3 spaces in the manual drying area plus 2/3 employees on the largest shift
	b) Self-service	*3 stacking spaces/approach lane plus 2 drying spaces/stall
5)	Delivery services	2/3 employees on largest shift plus 1/vehicle used in the operation
6)	Equipment rental and leasing	1/200 square feet gross floor area
7)	Funeral homes or crematoria	1/4 seats in main chapel plus 2/3 employees on the largest shift plus 1/vehicle used in the largest operation
8)	Hotels and motels containing...	
	a) 5,000 square feet or less ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing 3,000 square feet or less	1.1/rental unit
	b) more than 5,000 square feet of ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing over 3,000 square feet	1.25/rental unit
9)	Kennels or pet grooming	1/300 square feet of sales, grooming or customer waiting area plus 2/3 employees on the largest shift
10)	Laundromat (coin operated)	1/4 pieces of rental equipment
11)	Laundry and dry cleaning plants or substation	*2/3 employees on the largest shift plus 1/vehicle used in the operation plus stacking for 4 vehicles/pickup station
12)	Laboratories	*2/3 employees on the largest shift plus 1/250 square feet of office space



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



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

/ = Per

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

11-2.4. Design standards for parking, stacking and loading areas.



- (A) Parking facilities shall be designed and constructed so as to:
- (1) Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;
 - (2) Minimize delay and interference with traffic on public roads and access drives;
 - (3) Maximize sight distances from parking lot exits and access drives; and
 - (4) Allow off-street parking spaces in parking lots to have access from parking lot driveways and not directly from roads.
- (B) Dimensional requirements. Parking facilities shall be designed and constructed to meet the minimum parking space dimensions, aisle dimensions and other standards found in table 11-2-2.
- (C) Improvements:
- (1) Paving.
 - (a) Required parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
 - (b) Access drives shall be paved and maintained from the curblines to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

Table 11-2-2

Parking Space Geometric Design Standards

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

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



Stacking Space Geometric Design Standards

Stacking Spaces shall be 12 feet by 20 feet.
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GRAPHIC UNAVAILABLE: [Click here](#)

- (c) Paving shall not be required for:
 - (i) Parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations.
 - (ii) Parking facilities for residential uses where six or fewer spaces are required.
 - (iii) Parking areas for agricultural uses in the Agricultural District (A-1).
 - (iv) Parking areas in the General Industrial District or manufacturing and industrial uses in the Light Industrial District (OI, M-1, & M-2), provided they are constructed with an all-weather surface.
 - (v) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.
- (d) Where parking facilities are paved, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the zoning administrator that such system is not practical for storm drainage purposes.
- (e) All facilities shall be graded, properly drained, stabilized and maintained to minimize dust and erosion.
- (f) All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.
- (g) All parking spaces shall be provided with wheel guards or curbs located so that no part of the parked vehicle will extend beyond the property line or encroach more than two feet into a required planting area.
- (h) Concrete pads for stationary refuse containers shall be provided beneath and in the approach to each container.
- (i) Parking lots shall be designed and constructed such that walkways shall maintain



a minimum unobstructed width of four feet (vehicle encroachment is calculated as two feet beyond curb).

11-2.5. *Location.*

- (A) *Off-site parking lots.* When required off-street parking is permitted to be located off-site, it shall begin within 500 feet of the zone lot containing the principal use. Required off-street parking shall not be located across an intervening major or minor thoroughfare.
- (B) *Parking in nonresidential district.* Automobile parking for any use may be provided in any nonresidential district.
- (C) *Parking in residential districts.* Surface parking in a residential district for any use not permitted in that district is allowed under the following conditions:
 - (1) Property on which the parking is located must abut the lot containing the use that the parking serves. The property must be under the same ownership or subject to a parking encumbrance agreement. All access to such property shall be through nonresidentially-zoned property;
 - (2) Parking shall be used only during daylight hours;
 - (3) Parking shall be used by customers, patrons, employees, guests, or residents of the use that the parking serves;
 - (4) No parking shall be located more than 120 feet into the residential zoning district.
 - (5) No parking shall be permitted closer than 150 feet to any public road right-of-way upon which the principal use would not be permitted driveway access; and
 - (6) Long-term or dead storage, loading, sales, repair work or servicing of vehicles is prohibited.

11-2.6. *Combined parking.*

- (A) *Separate uses.* The required parking for separate or mixed uses may be combined in one facility.
- (B) *Shared parking.* A maximum of 50 percent of the parking spaces required for a church, theater, auditorium or assembly hall or other similar use may also serve as required spaces for another use located on the same zone lot. Shared spaces may also be located off-site as allowed in section 11-2.5(A) (off-site parking lots). In either case, the zoning administrator must determine that the various activities will have peak parking demand at different periods of the day or week. Otherwise, no off-street parking required for one building or use shall be applied toward the requirements of any other building or use.



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

11-2.7. Loading areas.

- (A) *Location.* Off-street loading areas shall be located on the same zone lot as the use they serve.
- (B) *Design standards.*

(1) Minimum number of loading spaces required:

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

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

- (b) Office buildings and hotels:

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

- (c) Industrial and wholesale operations:

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

- (2) Each loading space shall be at least 12 feet wide, 65 feet long, and 14feet in clearance.



- (3) All off-street loading areas shall be arranged and marked to provide for orderly and safe unloading and loading, and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from a road or maneuvering on the road right-of-way shall be permitted.

11-2.8. *Parking and loading area landscaping.* All parking lots containing ten or more spaces shall provide landscaping and screening in accordance with the standards delineated in section 11-3.1.

11-2.9. *Excessive illumination in parking lots and loading areas.* Lighting within any parking and loading area that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited.

Sec. 11-3. Landscaping and screening.

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

11-3.1. *Parking and loading area landscaping.*

(A) *Roadside buffer yard requirements.*

- (1) All parking lots containing ten or more parking spaces shall include a minimum ten-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way (where such parking lot is not screened visually by an intervening building).
- (2) The required roadside buffer yard shall contain at least one canopy tree for each 60 linear feet of road frontage and each tree shall be a minimum of eight feet in height and shall have a minimum caliper of two inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.
- (3) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.
- (4) All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of three inches.

(B) *Property line buffer yard requirements.*



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

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

11-3.2. *Screening of dumpsters.* Solid waste collection dumpsters which are (i) located on sites used for multifamily residential, commercial, institutional, or industrial purposes and (ii) abutting a residence, residentially zoned lot, or road right-of-way shall be screened from the view of adjoining residences, residentially zoned lots, or road rights-of-way. Such screening may consist of natural vegetation, fences, walls, or berms and shall be installed, located, or constructed so as to create an effective screen.

11-3.3. *Screening of adjoining incompatible land uses.*

(A) *Multifamily residential uses.* Whenever eight or more multifamily residential dwelling units are proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the multifamily use shall provide screening in accordance with the following standards:

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

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



the following standards:

- (1) A minimum 25-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.
 - (2) The buffer yard shall contain three canopy trees and five understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of eight feet in height and two inches in caliper (measured six inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted.
 - (3) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.
 - (4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of three inches.
- (C) *Manufactured home parks.* Whenever a manufactured home park is proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the manufactured home use shall provide screening in accordance with the following standards:
- (1) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.
 - (2) The buffer yard shall contain two canopy trees and three understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of eight feet in height and two inches in caliper (measured six inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted.
 - (3) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species that can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within three years of planting.
 - (4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of three inches.

11-3.4. *Alternative screening methods.*



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

11-3.5. *Maintenance.* In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees that may die must be replaced in compliance with the minimum standards of this ordinance. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians, which could reduce the effectiveness of the screening.

11-3.6. *Use of existing screening.* When a lot is to be developed so that screening is required and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of this ordinance. The existing screen must meet the minimum standards for screening established by this ordinance and it must be protected from damage by pedestrians or motor vehicles. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the



screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of this ordinance.

11-3.7. *Obstructions prohibited.* Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway, or parking aisle.

11-3.8. *Guarantee in lieu of immediate installation of landscaping and screening materials.* It is recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this ordinance and reduce the potential expense of replacing landscaping or screening materials that were installed in an untimely or improper fashion, the developer may provide, in accordance with the provisions of section 4-8, an adequately secured performance bond or other security to ensure that all of the requirements of section 11-3 will be fulfilled.

Sec. 11-4. Development standards for individual uses.

11-4.1. *Application of development standards.* The development standards listed herein are additional to other requirements in this ordinance. These development standards are use-specific and apply to those uses designated with a "D" in table 9-3-1 table of permitted uses. Uses requiring approval of a special use or conditional use permit (designated with a "S" or "C" in table 9-3-1) shall also be subject to these standards and any additional standards or conditions required by the special use permit or conditional use permit.

11-4.2. *Standards for all uses.* The following rules apply to all development standards and uses listed below:

- (A) *Property separation.* All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed use is to be located to the lot line of the closest use (or zoned property) from which the proposed use is to be separated.
- (B) *Use separation.* All measurements shall be made by drawing straight lines from the nearest point on the wall of a proposed or existing principal building or edge of a proposed use to the nearest point on the wall of the principal building from which the subject building is to be separated, unless otherwise specified.
- (C) *Outdoor lighting.* Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.

11-4.3. *Accessory dwelling units (on single-family lots).*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *General requirements.*
 - (1) The accessory dwelling unit is permitted on the same lot with a principal dwelling unit.



- (2) No more than one accessory dwelling unit is permitted on the same lot with a principal dwelling unit.
- (3) No accessory dwelling unit shall be permitted on the same buildable lot with a two-family or multifamily dwelling or family care home.

(C) *Accessory dwelling unit within a detached accessory structure.*

- (1) Detached accessory dwelling units with a gross floor area of less than 600 square feet shall be located at least ten feet from side and rear property lines. Accessory dwelling units with a gross floor area of 600 square feet or greater shall meet the setback requirements of the principal building.
- (2) Detached accessory dwelling units shall be located behind and at least 20 feet from the principal dwelling.
- (3) The lot containing both the principal dwelling and a detached accessory dwelling shall have one and one-half times the minimum lot area required for the district in which located.
- (4) A detached accessory dwelling unit may be a manufactured home in districts which permit manufactured homes.
- (5) A detached accessory dwelling unit may be a dwelling unit that is part of an accessory garage or a free-standing dwelling unit meeting the NC Building Code.
- (6) A detached accessory dwelling unit shall have no more than 50 percent of the gross floor area of the principal building.

(D) *Accessory dwelling unit within a principal single-family dwelling.*

- (1) The principal building shall not be altered in any way so as to appear from a public or private road to be multifamily housing. Prohibited alterations include, but are not limited to, multiple entranceways, or multiple mailboxes. Access to the accessory dwelling unit shall be by means of an existing side or rear door, except where a new entrance is required by the NC Building Code. No new doorways or stairways to upper floors are permitted if they are attached to the side of a building facing a public or private road.
- (2) An accessory dwelling unit shall occupy no more than 25 percent of the heated floor area of the principal building. The sum of all accessory uses (including home occupations) in a principal building shall not exceed 25 percent of the total floor area.

11-4.4. *Airport or air transportation facility.*



- (A) *Where required.* OI and B-2 districts.
- (B) *Minimum area.* Fifty acres for basic utility stage 1 airport with 2,000-foot runway. More area is required for larger airports. Airport size and layout shall conform to FAA Advisory Circular 150/5300-4B.
- (C) *Use separation.* There shall be a minimum 300-foot distance between the airport property and the nearest residence.
- (D) *Fencing.* Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum six feet in height.

11-4.5. *Ammunition, small arms manufacture.*

- (A) *Where required.* M-2 District.
- (B) *Use separation.* No such facility shall locate within a 500-foot radius of any residential or office and institutional zoning district.
- (C) *Security fencing.* Security fencing, a minimum of six feet in height, shall be provided along the entire boundary of such a facility.
- (D) *Operation.* The facility and its operation shall observe all county and state regulations regarding fire prevention and protection requirements.

11-4.6. *Amusement or water parks, fairgrounds.*

- (A) *Where required.* A-1, AR-30, and M-1 districts.
- (B) *Minimum area.* Minimum lot size shall be 5 acres.
- (C) *Property separation.* No buildings or structures, temporary or otherwise, shall be located within 50 feet of any property line.
- (D) *Security fencing.* Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the park activities.
- (E) *Use separation.* No amusement equipment, machinery or mechanical device of any kind may be operated within 200 feet of any residentially used or zoned property.

11-4.7. *Animal slaughter or rendering.*

- (A) *Where required.* M-2 district.
- (B) *Property separation.* All structures, buildings or enclosed areas used for the operation shall be a



minimum of 150 feet from all property lines.

- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Dust.* All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- (E) *Fencing.* Security fencing shall be provided around all outside storage areas.
- (F) *Access.* A truck route plan shall be submitted showing routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other land uses that would be negatively impacted by truck traffic.
- (G) *Odors.* The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located.

11-4.8. *Animal specialty services.*

- (A) *Where required.* B-1 and B-2 districts.
- (B) *Outside storage.* Pens and runs located outdoors are prohibited.

11-4.9. *Arts and crafts shows.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the proposed arts and crafts show site.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (D) The zoning administrator shall not grant the permit unless it finds that the parking generated by the use can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

11-4.10. *Athletic fields.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Access.* All athletic fields shall have access to collector or higher capacity road.
- (C) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).



11-4.11. *Automobile repair services.*

- (A) *Where required.* B-1 district.
- (B) *Maximum built-upon area.* Outdoor storage areas and all other built-upon areas shall not exceed 24 percent.
- (C) *Operation.* No outdoor disassembly or salvaging shall be permitted.
- (D) *Screening.* Any outdoor storage area must be screened with a six-foot high opaque fence in addition to any landscaping or screening required by section 11-3.
- (E) *Dust.* All unpaved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

11-4.12. *Bar, night club, and tavern.*

- (A) *Where required.* A-1, AR-30, OI, B-1, and B-2 districts.
- (B) *Use separation.* No bar, night club or tavern shall be located within 500 feet of any other bar, night club or tavern.
- (C) *Property separation.* No such establishment shall be located within 200 feet of a church, elementary or secondary school, public park or residentially-zoned property nor within 75 feet of a public road right-of-way.
- (D) *Frontage.* The main entrance of the building shall be toward a road where the abutting property is zoned predominantly for non-residential use.
- (E) *Screening.* A minimum six-foot high opaque fence shall be erected adjacent to the property line of abutting residences.
- (F) *Parking.* Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences.

11-4.13. *Batting cages.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Security fencing.* Fencing, netting or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the designated area.
- (C) *Minimum property setbacks.* All buildings and structures shall be a minimum of 50 feet from any residentially-zoned or used lot.



- (D) **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (E) The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10:00 p.m. and 8:00 a.m.
- (F) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

11-4.14. *Bed and breakfast.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Operation.*
 - (1) The use must be owned and operated by a resident owner.
 - (2) The use shall be located in a structure that was originally constructed as a dwelling.
 - (3) Meals served on the premises shall be only for guests of the facility.
- (C) *Signs.* There shall be no exterior advertising except that which is permitted for a home occupation.
- (D) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.15. *Boarding and roominghouse.*

- (A) *Where required.* R-10, OI, and B-2 districts.
- (B) *Operation.*
 - (1) The use must be owned and operated by a resident owner.
 - (2) The use shall be located in a structure that was originally constructed as a dwelling.
 - (3) Meals served on the premises shall be only for residents of the facility.
- (C) *Signs.* There shall be no exterior advertising except that which is permitted for a home occupation.
- (D) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).



11-4.16. *Building supply sales.*

- (A) *Where required.* B-1 and B-2 districts.
- (B) *Screening.* All outside storage shall be completely screened from view from all roads and adjacent residentially zoned property.
- (C) *Security fencing.* Security fencing, a minimum six feet in height, shall be provided around all outside storage areas.
- (D) *Dust.* All storage areas shall be maintained in a manner so as to limit dust from drifting onto adjoining properties.

11-4.17. *Caretaker dwelling.*

- (A) *Where required.* All districts.
- (B) *Operation.* A building permit for the principal building must be obtained or the principal use must be initiated prior to occupancy.
- (C) *Number.* No more than one caretaker dwelling unit shall be permitted per lot.
- (D) *A caretaker dwelling may be a manufactured home in nonresidential districts. In residential districts, a caretaker dwelling may be a manufactured home only in those districts that permit a manufactured home.*
- (E) *A caretaker dwelling shall:*
 - (1) *Have an approved sewage disposal connection or system;*
 - (2) *Meet all setbacks applicable to the principal building or use;*
 - (3) *Be erected in accordance with the NC Building Code.*
 - (4) *Be located on a lot which has sufficient lot area to meet the minimum lot area requirements for both the principal use and a single-family residence. In nonresidential districts, where there is no minimum lot area requirement for single-family dwellings, a minimum of 10,000 square feet is required for a caretaker dwelling in addition to the minimum lot area required for the principal use.*

11-4.18. *Carnivals and fairs.*

- (A) *Where required.* A-1, AR-30, and OI districts.



- (B) Minimum lot area. The minimum lot size shall be three acres.
- (C) The hours of operation allowed shall be compatible with the land uses adjacent to the carnival or fair.
- (D) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (E) The board of adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

11-4.19. *Cemetery, family.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *General requirements.*
 - (1) All requirements of the North Carolina General Statutes and Edgecombe County concerning the interment of human dead shall be met;
 - (2) No interment shall take place within five feet of any property line nor within 50 feet of any public road right-of-way;
 - (3) A minimum of 18 feet access easement must be reserved from the public road to the cemetery;
 - (4) Family cemeteries shall be platted and recorded in the Edgecombe County Register of Deeds.

11-4.20. *Church.*

- (A) *Where required.* AR-30, R-30, R-20, and R-10 districts.
- (B) *Location.* Church facilities located on sites of three acres or more shall have direct access to a collector or higher capacity road.
- (C) *Minimum property setbacks.* The minimum road setback shall be at least 25 feet greater than that required for a single-family dwelling for the zoning district in which located. The minimum side and rear setbacks shall be at least 50 feet.
- (D) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.21. *Club.*



- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Location.* Clubs shall have direct access to a collector or higher capacity road. However, if the use is intended to serve only a membership that is limited to a residential development, access may be provided from an interior road within the residential development.
- (C) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.22. *(Reserved)*

11-4.23. *(Reserved)*

11-4.24. *Concerts, stage shows.*

- (A) Where required. OI district.
- (B) Minimum lot area. The minimum lot size shall be three acres.
- (C) The hours of operation allowed shall be compatible with the land uses adjacent to the concert or stage show.
- (D) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (E) The board of adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (F) Location. Principal access must be from a collector or higher capacity road.

11-4.25. *Congregate care facility.*

- (A) *Where required.* OI and B-2 districts.
- (B) *Operation.*
 - (1) The facility shall provide centrally-located, shared food preparation, service and major dining areas.
 - (2) Common recreation, social and service facilities shall be provided at a minimum rate of 30 square feet per dwelling unit or per rooming unit.
 - (3) All facilities shall be solely for the use of residents and their guests.



- (4) Facilities for administrative services and limited medical services for the exclusive use of the residents shall be located on the site.
- (C) *Property separation.* No such facility shall be located within one-half mile of an existing congregate care facility.

11-4.26. Convenience store.

- (A) *Where required.* A-1, AR-30, and OI districts.
- (B) *Maximum area.* A maximum of 3,000 square feet of gross floor area shall be permitted per establishment.
- (C) *Outside storage.* No outside storage of materials shall be permitted.
- (D) *Gasoline service islands/pumps.* There shall be no more than two gasoline service islands.

11-4.27. Correctional institution.

- (A) *Where required.* A-1, OI, and M-2 districts.
- (B) *Minimum setbacks.* The use shall be set back 100 feet from all property lines and public road rights-of-way.
- (C) *Use separation.* All structures, enclosed areas, and fenced areas shall be located at least 200 feet from any residential zoning district.
- (D) *Location.* Principal access shall be from a collector or higher capacity road.

11-4.28. Country club with golf course.

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Minimum area.* The minimum area shall be two acres in addition to the golf course(s).
- (C) *Use separation.* Fifty-foot minimum distance between clubhouse, swimming pool, lighted tennis court, tees, greens, or fairways and any adjacent residentially-zoned property.
- (D) *Security fencing.* Outdoor swimming pools shall be protected by a fence in accordance with the Edgecombe County Health Department's public swimming pool regulations.

11-4.29. Day care center, child or adult.

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, M-1, and M-2 districts.



- (B) *Security fencing.* Outdoor activity area(s) for children shall be enclosed by a security fence at least six feet in height and shall be located outside of the road setback.
- (C) *Location.* Centers on a site greater than three acres shall have access to a collector or thoroughfare road.

11-4.30. *Demolition debris landfill.*

- (A) *Where required.* A-1, AR-30, B-2, M-1, and M-2 districts.
- (B) *Use separation.* Fifty feet minimum from any property line; 300 feet minimum from any residence.
- (C) *Access.* Access to the landfill shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated dumping.
- (D) *Dust.* All unpaved areas shall be maintained in a manner that prevents dust from leaving the property.
- (E) *Operation.* No filling is permitted in the 100-year floodplain of any stream; no filling is permitted in utility easements.
- (F) *Closure.* Landfills shall be closed with a minimum of two feet of clean soil, graded to a maximum slope of 3:1 and stabilized with vegetation or in accordance with current state standards.
- (G) *Signs.* An entrance sign shall be posted and maintained which lists the name and phone number of the current operator, the types of material accepted, the hours of operation, tipping charges and any other pertinent information.

11-4.31. *Explosives manufacture.*

- (A) *Where required.* A-1 and M-2 districts.
- (B) *Property separation.* No facility shall locate within 500 feet of any residentially, office, or institutionally-zoned property.
- (C) *Minimum property setbacks.* Buildings, including any accessory buildings for storage of explosive raw materials and/or final products, shall be not less than 150 feet from all property lines.
- (D) *Security fencing.* Security fencing, a minimum of eight feet in height, shall be provided along the entire boundary of the facility.



- (E) *Operation.* Building(s) shall meet the requirements for hazardous occupancy under the NC Building Code.

11-4.32. *Farm product warehousing and storage.*

- (A) *Where required.* A-1, AR-30, and B-1 districts.
- (B) *Use separation.* All structures, buildings or enclosed areas used for the operation shall be a minimum of 100 feet from all property lines.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Dust.* All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

11-4.33. *Fish, canned, cured or frozen manufacture.*

- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.34. *Go-cart raceway.*

- (A) *Where required.* B-2 district.
- (B) *Property separation.* No raceway shall be located within 500 feet of any residentially or office and institutionally zoned property.
- (C) *Noise.* The facility shall be sited and operated so as not to produce noise or sound that would adversely impact adjoining and surrounding properties.
- (D) *Dust.* All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.
- (E) *Fencing.* Security fencing, a minimum of six feet in height, shall be provided along the entire boundary of the raceway.
- (F) *Hours of operation.* No such facility that adjoins residentially used or zoned property shall conduct business between the hours of 10:00 pm. and 8:00 am.



11-4.35. *Golf course.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Use separation.* Fifty-foot minimum distance between clubhouse, tees, greens, or fairways and any adjacent residentially-zoned property.

11-4.36. *Golf course, miniature.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Minimum property setbacks.* All buildings and structures shall be a minimum of 50 feet from any residentially-zoned or used lot.
- (C) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (D) *The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site.* In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 8 am.
- (E) *The amount of noise generated shall not disrupt the activities of the adjacent land uses.*

11-4.37. *Golf driving range.*

- (A) *Where required.* A-1, AR-30, and B-1 districts.
- (B) *Minimum area.* The minimum lot depth from the tees to the end of the driving area shall be 1,000 feet or the end shall be controlled with netting and/or berms to prevent golf balls from leaving the property.
- (C) *Security fencing.* Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area so as to prevent golf balls from leaving the driving area.
- (D) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (E) *The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site.* In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10:00 pm and 8:00 am.
- (F) *The amount of noise generated shall not disrupt the activities of the adjacent land uses.*



11-4.38. *Group care facility.*

- (A) *Where required.* R-10, OI, and B-2 districts.
- (B) *Property separation.* No such facility shall be located within one-half mile of an existing group care facility.
- (C) *Operation.* The facility shall be limited to not more than 30 persons including resident managers.
- (D) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.39. *Hazardous and radioactive waste (transportation, storage, and disposal).*

- (A) Where required. M-2 district.
- (B) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580) and the North Carolina Solid Waste Management Act, as amended (article 13B. G.S. 130-166.16) for design, siting, and materials to be stored and treated.
- (C) *Property separation.* All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required separation area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.
- (D) *Fencing.* A security fence at least seven feet in height with a minimum nine-gauge fabric and three strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.
- (E) *Location.* Vehicular access to the operation will be provided only by way of a U.S. or NC numbered highway or an industrial area access road.
- (F) All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.
- (G) All sanitary sewer and stormwater management systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials. A stormwater management plan shall be prepared by the applicant and submitted to the county for review by the county and the Environmental Management Division of the NC Department of Environment, Health, and Natural Resources. A NPDES Permit for stormwater discharge shall also be obtained, if applicable.

11-4.40. *Heliport.*



- (A) *Where required.* OI, B-2, M-1, and M-2 districts.
- (B) *Minimum area.* Heliport size and layout shall conform to applicable Federal Aviation Administration requirements.
- (C) *Use separation.* There shall be a minimum 300-foot distance between the heliport property and the nearest residence or residentially-zoned property.

11-4.41. *Home occupation.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, OI, B-1, and B-2 districts.
- (B) *Maximum area.* The area set aside for a home occupation shall occupy no more than 25 percent of the gross floor area of a dwelling unit or of an accessory structure or 500 square feet, whichever is less.
- (C) *Outside storage.* No outside storage or display of items associated with the home occupation is permitted.
- (D) *Operation.*
 - (1) The home occupation must be conducted entirely within a dwelling unit or accessory structure. It must be a use that is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the residence.
 - (2) Permitted home occupations include, but are not limited to: typing services, telephone sales, barber/beauty services, doctor/dentist office, architects, insurance agency, lawyer, real estate broker, teacher, accountants, child or adult day care (five or fewer persons), food catering, tailoring, and handcrafting, etc.
 - (3) No on-site retail sales, except for goods made on the premises, are allowed.
 - (4) No goods, stock-in-trade, or other commodities shall be displayed.
 - (5) Only one person may be employed who is not an occupant of the residence.
 - (6) Activities shall not generate traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located.
 - (7) Instruction in music, dancing, art, or similar subjects shall be limited to no more than five students at one time.



(E) *Signs.* Signs for home occupations shall conform to the requirements of section 11-1.5 (D).

11-4.42. *Homeless shelter.*

(A) *Where required.* B-2 district.

(B) *Property separation.* No such facility shall be located within one-quarter mile of an existing homeless shelter.

11-4.43. *Horse shows.*

(A) *Where required.* A-1, AR-30, B-2, M-1, and M-2 districts.

(B) The hours of operation allowed shall be compatible with the land uses adjacent to the proposed horse show site.

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

(D) The zoning administrator shall not grant the permit unless it is determined that the parking generated by the horse show can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

11-4.44. *Industrial and commercial machinery manufacture.*

(A) *Where required.* M-1 district.

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

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

11-4.45. *Kennels or pet grooming.*

(A) *Where required.* B-1 and B-2 districts.

(B) *Outside storage.* Pens and runs located outdoors are prohibited.

11-4.46. *Landing strip, flying field.*

(A) *Where required.* A-1, AR-30, OI, and B-2 districts.

(B) *Use separation.* There shall be a minimum distance of 200 feet between the use and the nearest residence or residentially zoned lot.



- (C) *Minimum area.* The size and layout shall conform to applicable Federal Aviation Administration requirements.

11-4.47. *Leather and leather products manufacture.*

- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.48. *Library.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Location.* Libraries shall have direct access to a collector or higher classified road.
- (C) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.49. *Manufactured home park.*

- (A) *Where required.* R-20 district.
- (B) *General requirements.*
 - (1) Minimum number of manufactured home spaces: at least five spaces. Class A, B, or C manufactured homes are allowed within manufactured home parks.
 - (2) Manufactured homes shall not be sold within a manufactured home park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he resides.
 - (3) The transfer of a deed to a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park as long as the manufactured home park is in operation.
 - (4) Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained from the county.



- (5) Within a manufactured home park, one manufactured home may be used as an administrative office.
 - (6) Convenience establishments of a commercial nature shall be limited to food stores, coin-operated laundries, beauty parlors and barbershops. These may be permitted in manufactured home parks subject to the following restrictions:
 - (i) Such establishments shall be subordinate to the residential use and character of the park.
 - (ii) Such establishment shall present no visible evidence of their commercial character from any portion of any residential district outside the park.
 - (iii) Such establishment shall be designed to serve the trade and service needs of the park residents only.
 - (7) The Edgecombe County Environmental Health Section, the Edgecombe County Building Inspector, and/or the zoning administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this section. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for inspection.
 - (8) The park owner or operator shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section.
 - (9) Site plans for manufactured home parks shall comply with the requirements of article IV and appendix 1 [of this appendix B].
- (C) *Manufactured home space requirements.*
- (1) All manufactured homes shall be located on individual manufactured home spaces. Spaces served by municipal water and sewer systems or community water and sewer systems shall have at least 10,000 square feet of lot area. Spaces served by either a municipal or community sewer system, but not served by a municipal or community water system shall have at least 20,000 square feet of lot area or a larger area if determined necessary by the Edgecombe County Health Department. Spaces served by a municipal or a community water system but not served by a municipal or a community sewer system shall have at least 20,000 square feet of lot area or a larger area if determined necessary by the Edgecombe County Health Department per manufactured home unit, allowing no more than one manufactured home per septic tank. Spaces shall not be less than 100 feet in width at the setback line. An individual manufactured home with neither municipal or community water service nor municipal or community sewer service shall not be permitted within a manufactured home park.
 - (2) Each manufactured home space shall be clearly defined by means of concrete or iron pipe



markers placed at all corners and each space shall clearly display a street address as assigned by the county.

- (3) Each manufactured home space shall be located so as not to be susceptible to flooding and shall be graded so as to prevent any water from ponding or accumulating on the premises.
- (4) Each manufactured home shall be located at least 20 feet from any other manufactured home, at least 20 feet from any building within the manufactured home park, at least 20 feet from a side external property line, at least 30 feet from a rear external property line, and at least 15 feet from the edge of the right-of-way of any private interior road. The setback from a public road right-of-way shall be the same as that required for the zoning district in which the manufactured home park is located.

(D) *Road and access requirements.*

- (1) Convenient access to each manufactured home space shall be provided by roads with a minimum right-of-way of 50 feet for a residential collector road and 45 feet for a local residential road as defined by the North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards Manual. The required traveled way width is 20 feet for a 50-foot right-of-way and 18 feet for a 45-foot right-of-way. Private roads within manufactured home parks shall conform to the construction standards delineated in section 10-7.3 (G) (2).
- (2) Proper sight lines shall be maintained at all road intersections in accordance with the current NCDOT requirements for sight clearances.
- (3) New road names shall not duplicate or be similar to existing road names in the county and shall be subject to approval by the county.
- (4) Two automobile parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way nor within any road in the park.
- (5) No manufactured home space shall have direct vehicular access to a public road.
- (6) All manufactured home spaces shall directly abut a private road contained within the park.
- (7) The manufactured home park owner shall be responsible for the continued maintenance of the roads within the mobile home park.

(E) *Utility requirements.*

- (1) *Water supply.* An accessible, adequate, and potable supply of water shall be provided in



each manufactured home park. Where a municipal water supply is available, connection shall be made thereto and its supply used exclusively. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the NC Division of Health Services. Placement of water improvements to manufactured home spaces shall comply with the NC Building Code for plumbing.

(2) *Sewage disposal.*

- (a) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the NC Division of Environmental Management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the NC Division of Environmental Management. Placement of sewer improvements to manufactured home spaces shall comply with the NC Building Code for plumbing. Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the Edgewcombe County Health Department is obtained.
- (b) Provision shall be made for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the rise. The rim of the riser pipe shall extend at least four inches above ground elevation.

(3) *Solid waste disposal and sanitation requirements.*

- (a) The storage, collection, and disposal of solid waste in the manufacture home park shall be in accordance with the requirements of the Edgewcombe County Health Department.
- (b) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health director.
- (c) Parks shall be maintained from an accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
- (d) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building materials shall be stored at least one foot above the ground.
- (e) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (f) The growth of brush, weeds and grass shall be controlled to prevent harborage of



ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

- (4) *Street lighting requirements.* All roads in the manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be a 175 watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.
- (5) *Electrical service requirements.* Minimum electrical service of 200 ampere, 120/240 volt single phase shall be provided to each manufactured home space. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.
- (F) *Screening requirements.* Manufactured homes shall provide screening in accordance with the requirements of section 11-3.3 (C).
- (G) *Recreational space requirements.*
 - (1) Each manufactured home park shall provide 400 square feet of recreational area for each manufactured home space that is less than 10,000 square feet in area. However, no recreational area required by this subsection shall be less than 2,500 square feet.
 - (2) Recreational areas shall not be located in an area utilized for septic tank fields.

11-4.50. *Marina.*

- (A) *Where required.* B-1 and B-2 districts.
- (B) *Access.* The marina shall have access to a collector or higher classified road.
- (C) *Use separation.* There shall be a minimum 50 feet distance between any buildings, structures, or outdoor use areas associated with the marina and any adjacent residentially-used or zoned lot.
- (D) *Dust.* Any unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- (E) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (F) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4-51. *Metal coating and engraving.*



- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4-52. *Minerals (wholesale trade of).*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Use separation.* Outdoor storage areas shall be no closer than 50 feet to any adjoining residentially or office and institutionally used or zoned property.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Dust.* All nonpaved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.
- (E) *Access.*
 - (1) Access roads leading to any part of the operation shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.
 - (2) No part of such roads shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.
 - (3) A truck route plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses that will be negatively affected by truck traffic.

11-4.53. *Mining, quarrying, sand pits, and mineral extraction.*

- (A) *Where required.* A-1, AR-30, and M-2 districts.
- (B) *Use separation.*
 - (1) The edges of any pit where a mining operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 300 feet from any property line.
 - (2) Where the mining operation site is bounded by a railroad right-of-way currently being



used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

- (C) *Hours of operation.* All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.
- (D) *Mining permit.* A valid state-issued mining permit must be obtained.
- (E) *Screening.* Screening shall be provided in accordance with the requirements of section 11-3.3(B). However, if a berm is determined to be an adequate alternative screening method as provided for in section 11-3.4, the minimum height of the berm shall be six feet.

11-4.54. *Museum or art gallery.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Minimum lot area and access.* Museums or art galleries shall be located on sites of two acres or more and shall have direct access to a collector or higher capacity road.
- (C) *Minimum property setbacks.* The minimum road setback shall be at least 25 feet greater than that required for a single-family dwelling for the zoning district in which located. The minimum side and rear setbacks shall be at least 50 feet.
- (D) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.55. *Nursing and convalescent home.*

- (A) *Where required.* AR-30, R-30, R-20, and R-10 districts.
- (B) *Minimum lot area.* Eight thousand square feet for the first nine patient beds, rooms, or suites plus 1,000 square feet for each additional patient bed, room, or suite or the minimum lot area requirement for the zoning district, whichever is greater.
- (C) *Dimensional requirements.* The following minimum dimensional requirements shall apply to nursing and convalescent homes:
 - (1) Road right-of-way building setback: 50 feet.
 - (2) Side property line building setback: 50 feet.
 - (3) Rear property line building setback: 50 feet.
 - (4) Minimum lot width: 100 feet.



- (5) Minimum building separation: 20 feet.
- (6) Minimum lot area: 2 acres.
- (D) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.56. *Orphanage.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Minimum lot area.* Eight thousand square feet for the first nine client beds or rooms plus 1,000 square feet for each additional client bed or room or the minimum lot area requirement for the zoning district, whichever is greater.
- (C) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.57. *Outdoor flea markets/outdoor fruit and vegetable markets.*

- (A) Where required. A-1 and AR-30 districts.
- (B) A minimum lot area of two acres shall be required.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (D) The zoning administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (E) Principal access must be from a collector or higher capacity road.
- (F) The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor flea market.

11-4.58. *Outdoor religious events.*

- (A) Where required. OI district.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the event.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.



- (D) The board of adjustment shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (E) Location. Principal access must be from a collector or higher capacity road.

11-4.59. *Petroleum and petroleum products (wholesale trade of).*

- (A) *Where required.* M-2 district.
- (B) *Property separation.* All storage tanks and loading facilities shall be located at least 200 feet from any property line. Storage tanks and loading facilities shall be located a minimum of 50 feet from any residentially used or zoned property.
- (C) *Access.* Vehicle access to the use shall be provided only by way of a U.S. or NC numbered highway or an industrial area access road.
- (D) *Operation.* The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.
- (E) *Dikes.*
 - (1) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
 - (2) Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.
 - (3) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.
- (F) *Security fencing.* Security fencing, a minimum of six feet in height, shall be provided along the



entire boundary of such facilities.

11-4.60. *Petroleum and related industries manufacture.*

- (A) Where required. M-2 district.
- (B) Property separation. All structures, buildings, storage tanks, and loading facilities shall be located at least 200 feet from any property line. Storage tanks and loading facilities shall be located a minimum of 500 feet from any residentially used or zoned property.
- (C) Access. Vehicle access to the use shall be provided only by way of a U.S. or NC numbered highway or an industrial area access road. Gravel or paved roadways shall be provided to all storage tanks.
- (D) Operation. The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.
- (E) The use shall not generate noise, vibration, glare, fumes, odor, or electrical interference beyond what normally occurs in the zoning district in which it is located.
- (F) Dikes.
 - (1) Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
 - (2) Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.
 - (3) Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.
- (G) Security fencing. Security fencing, a minimum of six feet in height, shall be provided along the



entire boundary of such facilities.

11-4.61. *Planned unit development.*

- (A) *Where required.* AR-30, R-30, R-20, R-10, and OI districts.
- (B) *Minimum development area.* A minimum of 25 acres shall be required for a PUD.
- (C) *Minimum lot area.* Individual lot sizes may be reduced below the minimum specified in table 9-4-1 for the district in which the PUD is located. However, in no case may an individual lot size be reduced such that it is less than 75 percent of the minimum lot size delineated in table 9-4-1. In the OI district, minimum lot sizes for residential uses shall not be reduced to less than 7,500 square feet in area. The overall residential density of a PUD shall not exceed that normally permitted in the underlying zoning district.
- (D) *Dimensional requirements.* Building setback requirements are waived except that lots and structures within 150 feet of the perimeter of the planned unit development shall be in harmony with development on adjacent lands.
- (E) *Recreational and open space.* One-half of the land area saved by reducing the individual lot sizes as authorized in subsection (C) shall be reserved for recreational or open space use. The location, extent, and purpose of land proposed for recreational or open space shall be reviewed and approved by the planning board and board of commissioners. A private recreational use, such as a golf course or swimming pool, whose use is limited to the owners or occupants of the lots within the PUD may be approved. Other uses or sites that may qualify include historic buildings or sites, parks, extensive areas with tree cover, and low land along streams or areas of rough terrain where such areas are extensive and have features worthy of preservation.
- (F) *Permissible residential uses within a PUD.* Permissible residential uses within a PUD include single-family detached dwellings, two-family dwellings, townhouse dwellings, and multifamily dwellings.
- (G) *Permissible nonresidential uses within a PUD.* Business, professional and personal services and retail uses allowed within a PUD shall be limited to those uses specified in table 9-3-1 for the OI district. All other nonresidential uses allowed within a PUD shall be the same as those specified for the underlying zoning district. However, no more than 15 percent of the total land area of a PUD shall be used for nonresidential uses. No commercial use shall be permitted within 150 feet of the perimeter of the planned unit development unless the same or a similar use exists adjacent to the perimeter at the time of approval of the planned unit development.

11-4.62. *Pottery and related products manufacture.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Property separation.* All structures, buildings, or enclosed areas used for the operation shall be a



minimum of 50 feet from any residentially used or zoned lot.

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

11-4.63. *Private campground/RV park.*

- (A) *Where required.* A-1, AR-30, B-1, and B-2 districts.

- (B) *General requirements.*

- (1) Site plans for private campgrounds/RV parks shall comply with the requirements of article IV and appendix 1 [of this appendix B].
- (2) No campsite shall be used as a permanent place of abode, dwelling, or business for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.
- (3) Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.
- (4) All campsites proposed for sale shall be recorded with subsections (2) and (3) above as deed restrictions.
- (5) Accessory uses shall be so designed and developed so as to blend with the park's design and natural setting. Such uses shall be clearly accessory to the principal use as a campground/recreational vehicle park. Accessory uses shall include management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of the park. In addition, stores, restaurants, beauty parlors, barber shops, and other convenience establishments shall be permitted as accessory uses in zoning districts permitting such uses subject to the following conditions:
 - (a) Such establishments and the parking areas primarily related to their operation shall not occupy more than five percent of the gross area of the park;
 - (b) Such establishments shall be restricted in their use to occupants of the park and/or related park association members; and
 - (c) Such establishments shall present no visible evidence from any public road of their commercial character.
- (6) Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to



unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose that would expose persons or property to hazards.

- (7) Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust. A soil sedimentation control plan shall be submitted in accordance with section 12-4.
- (8) Surface drainage plans for the entire tract shall be reviewed by the zoning administrator to determine whether the proposed plan is compatible with the surrounding existing drainage pattern and relevant drainage plans, prior to issuance of site plan approval and building permits. No permit shall be issued where it is determined that the plan is incompatible with surrounding areas.

(C) *Dimensional requirements.*

- (1) Minimum density shall be limited to 15 campsites per net acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
- (2) In no case shall any campsite contain less than 1,500 square feet. To the greatest extent possible, campsites shall be developed to preserve their natural character. Campsites shall be level and well-drained.
- (3) Recreational vehicles shall be separated from each other and from other structures within the campground/RV park by at least ten feet. Any accessory structures such as attached awnings, carports, or individual storage facilities shall, for the purpose of this separation requirement, be considered part of the recreational vehicle.
- (4) Recreational vehicle sites and off-street parking spaces shall not be within the setback areas required for main buildings or principal structures.
- (5) Setback areas for recreational vehicle sites shall contain natural vegetation or be landscaped and shall be used for no other purposes.
- (6) The minimum setback of any building, structure, or recreational vehicle site from a public road right-of-way shall be the same as that required for the zoning district in which the park is located.
- (7) The minimum setback from any private, interior road shall be 20 feet from the edge of pavement.
- (8) The minimum exterior side property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior side property line setback shall be at least 20 feet.



- (9) The minimum exterior rear property line setback, when abutting residentially used or zoned areas, shall be 50 feet. In all other cases, the exterior rear property line setback shall be at least 30 feet.
- (D) *Access and road requirements.*
- (1) Entrance driveways shall be located not closer than 150 feet from the intersection of public roads.
 - (2) Interior access roads not proposed for public dedication shall conform to the construction standards for subdivision roads of NCDOT. However, requirements for minimum rights-of-way and paving widths shall not apply. Plans and profiles shall be submitted for review and approval. In no case shall the road or parking width be less than ten feet.
 - (3) Entrances and exits to campgrounds/RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic into and out of the park. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within (a) 100 feet where the speed limit is 45 mph or less or (b) within 150 feet where the speed limit is over 45 mph or any portion of the approach lane of the access way within 25 feet of its intersection with the right hand of the lane.
- (E) *Parking requirements.*
- (1) There shall be at least three off-street parking spaces designated in a campground/RV park for each two campsites. At least one space must be provided on each campsite with any residual spaces provided within 100 feet of the site.
 - (2) Each campsite shall contain a stabilized vehicular parking pad of paving or other suitable material.
- (F) *Utility requirements.*
- (1) No on-site water or sewer facilities shall be permitted on any campsite. Proposals for dumping stations and common toilets and restrooms, laundries, and baths shall have the approval and be subject to the requirements of the Edgecombe County Health Department. All community water facility proposals shall be approved and be subject to the requirements of the Edgecombe County Health Department.
 - (2) All water supply facilities shall have the approval of the Edgecombe County Health Department and/or NC Division of Health Services. All sewer facilities improvements shall have the approval of the Edgecombe County Health Department and the NC



Division of Environmental Management.

- (3) All water and sewer improvements within the campground/RV park shall comply with the NC Building Code for plumbing.
- (G) *Screening requirements.* Where campgrounds/RV parks abut a residential area, a permanent buffer yard of at least 50 feet shall be established with adequate restrictive covenants to prohibit development within the buffer yard. A natural year-round screen shall be planted, which at maturity, shall reach a minimum height of at least eight feet. Such screening shall complement the adjacent environment.
- (H) *Recreational space requirements.* A minimum of eight percent of the gross site area of the campground/RV park shall be set aside and developed as common use areas for open or enclosed recreation facilities.

11-4.64. *Private club or recreation facility, other.*

- (A) Where required. A-1, AR-30, and OI districts.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (D) The board of adjustment shall not grant the permit unless it finds that the parking generated by the facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (E) Location. Principal access must be from a collector or higher capacity road for any facility greater than three acres in size that generates an average daily traffic volume of over 200 or more trips per day.
- (F) Screening. Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with requirements of section 11-3.1(B).
- (G) Security fencing. Outdoor swimming pools shall be protected by a fence in accordance with the Edgecombe County Health Department's public pool regulations.

11-4.65. *Public park or recreational facility, other.*

- (A) Where required. AR-30, R-30, R-20, and R-10 districts.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.



- (D) The zoning administrator shall not grant the permit unless he finds that the parking generated by the facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (E) Location. Principal access must be from a collector or higher capacity road for any facility greater than three acres in size that generates an average daily traffic volume of over 200 or more trips per day.
- (F) Screening. Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (G) Security fencing. Outdoor swimming pools shall be protected by a fence in accordance with the Edgecombe County Health Department's public pool regulations.

11-4.66. *Pulp and paper mills.*

- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially-used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
- (D) Access. Principal access must be from a collector or higher capacity road or an industrial area access road.

11-4.67. *Race track operation.*

- (A) *Where required.* A-1 and AR-30 districts.
- (B) *Minimum lot area.* The minimum lot area shall be 40 acres.
- (C) *Location.* The use shall have direct access to an arterial or higher capacity road.
- (D) *Minimum property setbacks.* All buildings and structures shall be a minimum of 500 feet from any residentially-zoned or used lot.
- (E) *Screening.* All off-street parking lots shall be screened from all adjoining single-family residential uses or residentially-zoned lots by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (F) *Hours of operation.* The hours of operation allowed shall be compatible with the land uses adjacent to the proposed site. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10:00 pm and 8:00 am.



- (G) *Noise.* The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (H) *Dust.* All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.
- (I) *Fencing.* Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the raceway

11-4.68. *Retreat center.*

- (A) Where required. A-1 and AR-30 districts.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
- (C) The board of adjustment shall not grant the permit unless it finds that the parking generated by the facility can be accommodated without undue disruption or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (D) Location. Principal access must be from a collector or higher capacity road.
- (E) Screening. Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).

11-4.69. *Riding academy.*

- (A) *Where required.* A-1, AR-30, and B-2 districts.
- (B) *Use separation.* There shall be minimum 100-foot distance between manure storage areas, barns or stables and any adjacent residentially-zoned property.
- (C) *Dust.* All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.
- (D) *Restroom facilities.* Restroom facilities shall be approved by the Edgecombe County Health Department.

11-4.70. *Rubber and plastics, raw manufacture.*

- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially-used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond



what normally occurs in the zoning district in which it is located.

11-4.71. *Rural family occupation.*

- (A) *Where required.* A-1, and AR-30 districts.
- (B) *Minimum area.*
 - (1) The rural family occupation (RFO) must be located on a tract of two acres or more.
 - (2) A portion of the tract containing at least one acre in area with 150 feet of width must be designated and reserved as exclusively residential in A-1 districts; 30,000 square feet with 100 feet of width in AR-30 districts.
- (C) *Maximum area.* The total floor area of all buildings occupied by the RFO shall not exceed 5,000 square feet. The maximum land area that may be used in conjunction with the rural family occupation is 15,000 square feet.
- (D) *Use separation.* All operations of the RFO shall observe a 50-foot setback from all property lines.
- (E) *Location.* All operations of the RFO shall be located behind the rear line of the building occupied as the principal residence.
- (F) *Screening.* All operations of the RFO, including buildings, outside storage areas, and parking shall be treated as a separate use and shall be screened in accordance with the requirements of section 11-3.1(B).
- (G) *Environmental review.* The Edgecombe County Environmental Health Division shall evaluate each RFO request to determine the occupation's impact on the surrounding area with respect to excessive noise, dust, air emissions, odors, and surface or groundwater discharge. The RFO shall mitigate the impact on these and other environmental concerns. A written evaluation of these potential impacts is required by the Environmental Health Division prior to the consideration of any request for an RFO.
- (H) *Operation.*
 - (1) The RFO shall be owned by the landowner who must reside on the property.
 - (2) No more than five persons shall be employed other than those residing on the property.
 - (3) Outside storage and parking of commercial vehicles is permitted. The applicant shall indicate on the site plan the type and location of outside storage and the location and proposed number of vehicles to be parked on the lot.



- (4) The RFO shall not be operated between the hours of 9:00 p.m. to 6:00 a.m.
- (5) Permitted uses shall be limited to those products assembled or manufactured on-site for resale elsewhere, professional and business services, or stock-in-trade clearly incidental to such services. Commercial retail or wholesale operations which bring to the site goods specifically for the purpose of resale shall be prohibited.

11-4.72. *Salvage yards, auto parts; scrap processing.*

- (A) *Where required.* M-2 district.
- (B) *Minimum area.* The minimum area required to establish a salvage yard shall be five acres.
- (C) *Use separation.* The operations of salvage yards shall not be any closer than 300 feet to any residential property line. Neither should any such operations be closer than 300 feet to the property line of any school, hospital, nursing and convalescent home, or day care facility.
- (D) *Screening.* Salvage yards shall be enclosed by a sight-obstructing screen of at least six feet in height adjacent to public roads and eight feet in height adjacent to properties of a residential, educational or institutional nature. All such screens shall be maintained in a sound and stable manner for the life of the operation. Entrances and exits shall be secured when the salvage yard is closed. If state or federal requirements for screening are more stringent, such requirements shall be applicable.
- (E) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 400 feet to the nearest residence. No noisy processing shall be carried on in connection with the business on Sundays, Christmas Day, Thanksgiving Day, or at any time between the hours of 6:00 p.m. and 7:00 a.m.
- (F) *Vibration.* No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.
- (G) *Dust and particulates.* Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborn will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means such as to render the surface wind resistant. Points of ingress and egress shall be paved/hard-surfaced with either concrete or asphalt.
- (H) *Smoke and burning.* Emissions of smoke and burning of nonvegetative matter shall not be permitted on the site of a salvage yard.
- (I) *Trash and garbage.* Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited.



- (J) *Disposal of toxic/hazardous matter.* Disposal of toxic/hazardous matter on any salvage yard site shall be expressly forbidden.
- (K) *Storage of fuels.* Storage of fuels shall be contained in below ground tanks meeting the requirements of the State of North Carolina. No such fuel storage shall be within 1000 feet of any residential, educational, or institutional structure. Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.
- (L) *Drainage.* Salvage yard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.
- (M) *Weeds and vegetation.* Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than six inches.
- (N) *Storage.* Salvage materials shall be stored in piles not exceeding ten feet in height and shall be arranged as to permit easy access to all such salvage for fire fighting purposes.
- (O) *Permit requirements.* The facility shall obtain all applicable state and federal permits.

11-4.73. *Satellite dish antenna.*

- (A) *Where required.* All districts.
- (B) *Location.*
 - (1) All supporting cables and anchors shall be contained on the property.
 - (2) In residential and OI districts, satellite dish antennas shall not be located or placed within any road right-of-way building setback or side building setback.

11-4.74. *Service station, gasoline sales.*

- (A) *Where required.* OI district.
- (B) *Operation.*
 - (1) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment, and similar equipment shall be entirely enclosed within a building.
 - (2) No outside storage of materials shall be permitted. The number of vehicles stored outdoors shall not exceed the number of service bays at the establishment.



- (C) *Gasoline service islands/pumps.* There shall be no more than two gasoline service islands.

11-4.75. *Sewage treatment plant.*

- (A) *Where required.* A-1, OI, B-1, B-2, M-1, and M-2 districts.
- (B) *Use separation.* All structures, buildings, or enclosed areas used for the operation shall be a minimum of 300 feet from a residentially used or zoned lot.
- (C) *Noise.* Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Security fencing.* Security fencing, a minimum of six feet in height, shall be provided around hazardous operations, as determined by Edgecombe County, involved with the use.

11-4.76. *Sexually-oriented business.*

- (A) *Where required.* B-2 district.
- (B) *Property separation.*
- (1) No sexually-oriented business shall locate within 1,320 feet of any other sexually-oriented business.
 - (2) No sexually-oriented business shall locate within 500 feet of a church, public or private school, day care center or nursery school, public park, or residentially-zoned or used property.
- (C) *Prohibition of sleeping quarters.* Except for adult motels, no sexually-oriented business shall have sleeping quarters.
- (D) *Restriction of uses on the same property or in the same building.* There shall not be more than one sexually-oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually-oriented business.
- (E) *Signs.* Except for a business identification sign permitted in accordance with 11-1.5 (B or C), no other exterior advertising, promotional materials, or signage that is visible to the public from a road, sidewalk, or walkway shall be permitted.
- (F) *Hours of operation.* The hours of operation shall be compatible with the land uses adjacent to the proposed site.

11-4.77. *Shooting range, indoor.*



- (A) *Where required.* B-2, M-1 and M-2 districts.
- (B) *Noise.* The facility shall, to the maximum extent feasible, be designed to absorb sound.

11-4.78. *Shooting range, outdoor.*

- (A) *Where required.* A-1, AR-30, and OI districts.
- (B) *Use separation.* Separation shall be a minimum 300 feet between the range and the closest exterior property line.
- (C) *Access.* Access shall be controlled to prevent unregulated entrance to the firing area.
- (D) *Security fencing.* Security fencing shall be provided to prevent an individual from crossing the property downrange.
- (E) *Backstops.* The design of the backstop downrange shall be as approved by the National Rifle Association.

11-4.79. *Solid waste disposal (nonhazardous; sanitary landfill facility; collection sites, convenience centers, transfer sites).*

- (A) *Where required.*

Sanitary landfill facility: A-1, M-1, and M-2 districts.

Collection sites, convenience centers and transfer sites: A-1, AR-30, B-2, M-1, and M-2 districts.

- (B) *Use separation.* All structures, buildings, and landfilling operations shall be a minimum of 300 feet from a residentially-used lot.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Access.*
 - (1) Access to the facility shall be by way of a collector or higher classified road.
 - (2) Entrances shall be controlled to prevent unregulated access to the facility.
 - (3) Access roads leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.
 - (4) No part of access roads shall be located closer than 15 feet to an external property line



other than a limited access highway or railroad right-of-way line.

- (5) A truck route plan shall be submitted showing truck routes to and from the facility. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses that will be negatively affected by truck traffic.
- (E) *Minimum area.*
- (1) A minimum of 50 acres shall be required to establish a sanitary landfill facility.
 - (2) All other types of solid waste disposal facilities such as collection sites, convenience centers, and transfer sites shall have sufficient land area to adequately accommodate the facility's operations and to sufficiently separate the facility from adjoining land uses.
- (F) *Siting and design.* The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.
- (G) *Operation.* The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

11-4.80. *Swim and tennis club.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, OI, B-1, and B-2 districts.
- (B) *Minimum area.* The minimum area shall be two acres.
- (C) *Use separation.* There shall be a minimum 50-foot distance between clubhouses, swimming pools, and lighted tennis courts and any adjacent residentially used or zoned property.
- (D) *Operation.*
- (1) The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
 - (2) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (E) *Screening.* Parking lots shall be screened from adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of section 11-3.1(B).
- (F) *Security fencing.* Outdoor swimming pools shall be protected by a fence in accordance with the Edgecombe County Health Department's public swimming pool regulations.

11-4.81. *Swimming pool.*

- (A) *Where required.* All districts. The regulations of this section shall be applicable to swimming



pools located on private property which are under the control of a homeowner and the use of which is limited to the family members and invited guests.

- (B) *Use separation.*
 - (1) Pools shall be located so as to comply with the minimum setback requirement for accessory structures for the district in which it is located.
 - (2) Pools which are not an integral part of the principal building shall be located a minimum of ten feet from the principal building.
- (C) *Security fencing.* Swimming pools located outdoors shall be protected by a fence in accordance with the Edgecombe County Health Department's public swimming pool regulations.

11-4.82. *Swine farm.*

- (A) *Where required.* A-1 district.
- (B) *Conformance with Swine Farm Siting Act.* The use shall conform with the standards of the Swine Farm Siting Act, G.S. 106-803, which delineates requirements for the siting of swine houses, lagoons, and the land area onto which waste is applied.

11-4.83. *Telecommunications towers and facilities.*

- (A) *Where required.* A-1, AR-30, B-1, B-2, M-1, and M-2 districts except that telecommunications towers and facilities attached to or collocated on an existing tower shall be permitted by right.
- (B) *Submission requirements.* An application for a conditional use permit for a telecommunications tower and facilities shall include:
 - (1) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is proposed to be situated. If the applicant is not the owner of the parcel of land upon which the tower is proposed to be situated, the written consent of the owner shall be evidenced in the application.
 - (2) The legal description, parcel identification number, and address of the parcel of land upon which the tower is proposed to be situated.
 - (3) The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including county-owned property.
 - (4) A description of the design plan proposed by the applicant. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for towers and why design



alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.

- (5) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the applicant's telecommunications facilities on county-owned towers or usable antenna support structures located within a one-half mile radius of the proposed tower site.
- (6) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by other persons located within a one-half mile radius of the proposed tower site.
- (7) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within one-half mile radius of the proposed tower site.
- (8) A written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and nonresidential properties.
- (9) Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in subsection (E), Structural Requirements.
- (10) Written, technical evidence from a qualified engineer(s) acceptable to the fire marshall and the zoning administrator that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- (11) In order to assist county staff and the board of adjustment in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
- (12) The Telecommunications Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the county to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the county shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications



facilities and demonstrate how this meets FCC standards.

- (13) The zoning administrator may require an applicant to supplement any information that the zoning administrator considers inadequate or that the applicant has failed to supply. The zoning administrator may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the county in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.
- (C) *Height.* Towers are exempt from the maximum height restrictions of the districts where located. Towers may be permitted to a height in excess of 150 feet in accordance with subsection (P), criteria for site plan development modifications. Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than 20 feet over the top of the tower structure itself. Tower height shall be measured from grade.
- (D) *Setbacks.*
- (1) All towers up to 100 feet in height shall be set back on all sides a distance equal to the underlying building setback requirement in the applicable zoning district. Towers in excess of 100 feet in height shall be set back one additional foot per each foot of tower height in excess of 100 feet.
 - (2) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.
 - (3) Setback requirements may be modified, as provided in subsection (P) (2) (a), when placement of a tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the tower.
- (E) *Structural requirements.*
- No new tower shall be built, constructed, or erected in the county unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six months of the completion of the tower construction.
- All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the state building code, and any other standards outlined in this ordinance. All towers in operation shall be fixed to land.
- (F) *Separation or buffer requirements.* For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed



tower. Tower separation distances from residentially-zoned lands shall be measured from the base of a tower to the closest point of residentially-zoned property. The minimum tower separation distances from residentially-zoned land and from other towers shall be calculated and applied irrespective of county jurisdictional boundaries.

- (1) Proposed towers must meet the following minimum separation requirements from existing tower or towers which have a conditional use permit but are not yet constructed at the time a conditional use permit is granted pursuant to this section:
 - (a) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.
 - (b) Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of 1,500 feet.
 - (c) Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of 750 feet.
- (G) *Illumination.* Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is 300 percent of the height of the tower from the tower and when required by federal law, dual mode lighting shall be requested from the FAA.
- (H) *Exterior finish.* Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the board of adjustment.
- (I) *Landscaping.* All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with section 11-3. The board of adjustment may require landscaping in excess of the requirements of section 11-3 in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.
- (J) *Access/parking.* A parcel of land upon which a tower is located must provide access to at least one maintained vehicular parking space on site.
- (K) *Stealth design.* All towers which must be approved as a conditional use shall be of stealth design, i.e., designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.
- (L) *Telecommunication facilities on antenna support structures.* Any telecommunications facilities which are not attached to a tower may be permitted on any antenna support structure at least 50 feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure



is located. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit:

- (1) That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than 20 feet;
 - (2) That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the board of adjustment. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof but, which do not protrude more than 18 inches from the side of such an antenna support structure.
- (M) *Modification of towers.* A tower existing prior to the effective date of this ordinance, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this section, except for subsections (F), separation or buffer requirements, (N), certification and inspections, and (O), maintenance, provided:
- (1) The tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.
 - (2) An application for a zoning permit is made to the zoning administrator who shall have the authority to issue a zoning permit without further approval. The grant of a zoning permit pursuant to this subsection allowing the modification or demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
 - (3) The height of the modified or rebuilt tower and telecommunications facilities attached thereto do not exceed the maximum height allowed under this section.
 - (4) Except as provided in this subsection, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty days. This section shall not be interpreted to legalize any structure or use existing at the time this ordinance is adopted which structure or use is in violation of the county's zoning ordinance prior to enactment of this ordinance.



(N) *Certifications and inspections.*

- (1) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the state building code and all other construction standards set forth by county, federal, and state law. For new monopole towers, such certification shall be submitted with an application pursuant to subsection (B) of this section and every five years thereafter. For existing monopole towers, certification shall be submitted within 60 days of the effective date of this ordinance and then every five years thereafter. For new lattice or guyed towers, such certification shall be submitted with an application pursuant to subsection (B) of this section and every two years thereafter. The tower owner may be required by the zoning administrator to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (2) The county or its agents shall have authority to enter on the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the state building code and all other construction standards provided by the county, federal, and state law.
- (3) The county reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the county shall be borne by the tower owner.

(O) *Maintenance.*

- (1) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (2) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (3) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- (4) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
- (5) All towers shall maintain compliance with current RF emission standards of the FCC.
- (6) In the event that the use of a tower is discontinued by the tower owner, the tower owner



shall provide written notice to the county of its intent to discontinue use and the date when the use shall be discontinued.

(P) *Criteria for site plan development modifications.*

- (1) Notwithstanding the tower requirements provided in this section, a modification to the requirements may be approved by the board of adjustment as a conditional use in accordance with the following:
 - (a) In addition to the requirement for a tower application, the application for modification shall include the following:
 - (i) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
 - (ii) A description of off-site or on-site factors that mitigate any adverse impacts that might occur as a result of the modification.
 - (iii) A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
 - (iv) For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
 - (v) The zoning administrator may require the application to be reviewed by an independent engineer under contract to the county to determine the basis for the modification requested. The cost of review by the county's engineer shall be reimbursed to the county by the applicant.
 - (b) The board of adjustment shall consider the application for modification based on the following criteria:
 - (i) That the tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
 - (ii) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
 - (iii) In addition, the board of adjustment may include conditions on the site where the tower is to be located if such conditions are necessary to



preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

- (2) In addition to the requirements of subparagraph (1) of this subsection, in the following cases, the applicant must also demonstrate, with written evidence, the following:
- (a) In the case of a requested modification to the setback requirements, subsection (D), that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower at another site which is closer in proximity to a residentially-zoned land.
 - (b) In the case of a request for modification to the separation and buffer requirements from other towers of subsection (F), separation or buffer requirements, that the proposed site is zoned "industrial" or "heavy industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in subsection (F).
 - (c) In the case of a request for modification of the separation and buffer requirements from residentially-zoned land of subsection (F), if the person provides written technical evidence from an engineer(s) that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicants wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially-zoned property.
 - (d) In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to: (i) facilitate collocation of telecommunications facilities in order to avoid construction of a new tower, or (ii) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

(Q) *Abandonment.*

- (1) If any tower shall cease to be used for a period of 365 consecutive days, the zoning administrator shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the zoning administrator that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the zoning administrator shall issue a final determination of abandonment for the site. Upon



issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the tower.

- (2) To secure the obligation set forth in this section, the applicant (and/or owner) shall post a bond in an amount to be determined by the zoning administrator based on the anticipated cost of removal of the tower.
- (R) *Reserve space.* All new towers constructed within Edgecombe County's jurisdiction shall provide space for use by the county with no financial responsibilities to the county, the reserved space to be used by the county to be no less than 100 feet calculated from the base of the tower. The height of the reserved space to be used by the county shall be determined by Edgecombe County.

11-4.84. *Temporary emergency, construction, and repair residence.*

- (A) *Where required.* All districts.
- (B) *Time limitation.*
 - (1) Temporary residences and offices used on construction sites of nonresidential premises shall be removed within 30 days after the issuance of a final certificate of occupancy.
 - (2) Permits for temporary residences and offices to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within 12 months after the date of issuance, except that the board of adjustment may renew such permit if it determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.
- (C) *Use of manufactured home.* The use of class B or C manufactured homes as temporary emergency, construction and repair residences is permissible in all zoning districts.

11-4.85. *Temporary hardship manufactured home.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, and R-10 districts.
- (B) *Time limitation.* Permits for temporary hardship manufactured homes shall be issued initially for a one-year period. At the end of the 12-month period, the board of adjustment shall review the permit on an annual basis and may renew the permit on a 12-month basis.
- (C) *Setbacks.* A temporary hardship manufactured home shall conform to the principal building setback requirements of the zoning district in which it is located.
- (D) *Findings of fact.* Prior to issuing a permit for a temporary hardship manufactured home, the board of adjustment shall make the following findings of fact:



- (1) That the person(s) occupying the temporary manufactured home are physically dependent upon the person or persons occupying all or a portion of the principal dwelling or the person(s) occupying all or a portion of the principal dwelling are physically dependent upon the person(s) occupying the proposed temporary hardship manufactured home; and
 - (2) That financial conditions or other extenuating circumstances regarding the person(s) occupying the proposed temporary manufactured home and/or the principal dwelling necessitate the request for locating the temporary manufactured home on the same lot as the principal dwelling; and
 - (3) That the proposed location of the temporary manufactured home will not create unhealthy or unreasonable living conditions.
- (E) *Removal.* When the hardship justifying the temporary manufactured home is removed or if any of the conditions delineated in (D) above cease to be complied with, the temporary manufactured home shall be removed within 30 days.

11-4.86. *Temporary shelter.*

- (A) *Where required.* B-1 and B-2 districts.
- (B) *Time limitation.* The board of adjustment shall initially establish an automatic expiration date for the permit for such a facility with provisions for a maximum six-month renewal, if necessary.
- (C) *Location.* The facility shall be contained within the building of and operated by a government agency or nonprofit organization.
- (D) *Minimum floor area.* A minimum floor space of 50 square feet shall be provided for each individual sheltered.
- (E) *Operation.* The facility shall provide continuous on-site supervision during the hours of operation.

11-4.87. *Theater (outdoor).*

- (A) Where required. B-2 district.
- (B) The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor theater.
- (C) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (D) The zoning administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.



- (E) Principal access must be from a collector or higher capacity road.
- (F) No part of any theater screen, projection booth, or other building shall be located closer than 500 feet to any residentially-used or zoned property or any closer than 50 feet to any other property line or public road right-of-way. No parking space shall be located closer than 100 feet to any residentially-used or zoned property.
- (G) The theater screen shall not face a road or highway.

11-4.88. *Tires and inner tubes manufacture.*

- (A) Where required. M-2 district.
- (B) Use separation. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially used or zoned property.
- (C) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

11-4.89. *Truck stop.*

- (A) *Where required.* B-2, M-1, and M-2 districts.
- (B) *Use separation.* All structures, buildings, and outdoor use areas shall be a minimum of 100 feet from a residentially used or zoned lot.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Dust.* All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- (E) *Operation.*
 - (1) No outdoor disassembly or salvaging shall be permitted.
 - (2) The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
- (F) *Access.* Vehicle access to the use shall be provided only by way of a U.S. or NC numbered highway or an industrial access road.

11-4.90. *Turkey shoots.*



- (A) *Where required.* AR-30, B-1 and B-2 districts.
- (B) *Setbacks.*
 - (1) No turkey shoot shall be allowed within a required setback.
 - (2) All turkey shoots shall be established with the line of fire perpendicular to and away from a road right-of-way. The line of fire is a line that passes through the firing point and bisects the target. The backstop or target area shall be located not less than 500 feet from the road right-of-way.
 - (3) Sites adjacent to more than one road right-of-way must designate the higher classified road as the front, and set the line of fire perpendicular thereto. Any resultant line of fire parallel to a road must be a minimum distance of 200 feet from and parallel to the road right-of-way.
 - (4) All backstops shall be constructed a minimum of 500 feet from a residence located to the rear and/or side of the backstop. The design of the backstop shall be as approved by the National Rifle Association.
- (C) *Parking.* An off-street parking area adequate in size to park two cars for every backstop shall be provided.
- (D) *Operation.*
 - (1) Backstops shall be constructed of a material that will allow the shot to penetrate and not pass through. It shall be of a minimum thickness of two feet and maintained at a height of four feet above the target.
 - (2) The firearms used in turkey shoots shall be limited to shotguns firing shots no larger than number eight. No firearms may be used which have been altered from manufacturer's specifications.
 - (3) The operators of the turkey shoot shall be responsible for maintaining adequate fire protection by notifying the local fire department as to the dates and times of the turkey shoot.
 - (4) Turkey shoots shall be limited to Thursdays, Friday, Saturdays, and be in operation no later than 10:00 pm.
 - (5) Provisions for sanitation and refuse disposal must be made in accordance with health standards.
- (E) *Permit review.* The zoning administrator shall coordinate the review of a request for a turkey shoot with the Edgecombe County Health Department, Sheriff's Department, and Emergency



Management Service.

- (F) *Permit limitation.* The zoning administrator shall issue a permit not to exceed 90 days in a given year for a qualifying turkey shoot.

11-4.91. *Utility related appurtenances, substations.*

- (A) *Where required.* All districts.
- (B) *Dimensional requirements.* All buildings shall be considered accessory buildings or structures.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Security fencing.* Security fencing, a minimum of six feet in height, shall be provided around hazardous operations, as determined by Edgecombe County, involved with the use.
- (E) *Screening.* Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard that complies with the requirements of section 11-3.3(B).
- (F) *Dust.* All unpaved outdoor use areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

11-4.92. *Veterinary service (other).*

- (A) *Where required.* OI district.
- (B) *Outside storage.* Pens and runs located outdoors are prohibited.

11-4.93. *Water treatment plant.*

- (A) *Where required.* A-1, OI, B-1, B-2, M-1, and M-2 districts.
- (B) *Use separation.* All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from a residentially used or zoned lot.
- (C) *Noise.* Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
- (D) *Security fencing.* Security fencing, a minimum of six feet in height, shall be provided around hazardous operations, as determined by Edgecombe County, involved with the use.

11-4.94. *Business accessory to residence.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, OI, B-1, and B-2 Districts.



- (B) *Use separation.* There shall be a minimum distance of 100 feet between the use and the nearest residence or residentially zoned lot.
- (C) In residential districts, no more than two apartments/residences may be located within or as a part of commercial use.
- (D) In residential districts, each apartment/residence may not occupy more than 50 percent of the gross floor area of the commercial use.
- (E) Parking requirements shall conform to the use with the largest parking requirement, as listed in Table 11-2-1 Off-Street Parking and Stacking Requirements.
- (F) *Signs.* In residential districts, signs shall conform to the requirements of section 11-1.5(D), and in other districts, signs shall conform to the requirements of section 11-1.5 (B).

11-4.95. *Combination use.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, OI, B-1, and B-2 Districts.
- (B) *Use separation.* There shall be a minimum distance of 100 feet between the use and the nearest residence or residentially zoned lot.
- (C) *Minimum lot area.* In residential districts, the minimum lot size shall be 2 acres.
- (D) Parking requirements shall conform to the use with the largest parking requirement, as listed in Table 11-2-1 Off-Street Parking and Stacking Requirements.
- (E) *Signs.* In residential districts, signs shall conform to the requirements of section 11-1.5(D), and in other districts, signs shall conform to the requirements of section 11-1.5(B).

11-4.96. *Residence, accessory to business use.*

- (A) *Where required.* A-1, AR-30, R-30, R-20, R-10, OI, B-1, and B-2 Districts.
- (B) *Use separation.* There shall be a minimum distance of 100 feet between the use and the nearest residence or residentially zoned lot.
- (C) In residential districts, no more than two apartments/residences may be located within or as part of the commercial use.
- (D) In residential districts, each apartment/residence may not occupy more than 50 percent of the gross floor area of the commercial use.
- (E) Parking requirements shall conform to the use with the largest parking requirement, as listed in



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

- (F) *Signs.* In residential districts, signs shall conform to the requirements of section 11-1.5 (D), and in other districts, signs shall conform to the requirements of section 11-1.5(B).
(Ord. of 10-4-2004(2), § 1; Ord. of 6-5-2006(4), § 1; Ord. of 8-6-2007, § 1; Ord. of 6-5-2006(5), § 1)

ARTICLE XII.

ENVIRONMENTAL AND SPECIAL PURPOSE REGULATIONS

Sec. 12-1. Watershed protection overlay district regulations.

The watershed protection overlay districts are designed to protect designated public water supply watershed from activities that could degrade water quality. These two separate watershed protection overlay districts have been established, both of which are within a public water supply watershed that has been classified by the State of North Carolina as a WS-IV watershed:

The WCA, watershed critical area overlay district consists of that portion of the Tar River public water supply watershed designated by the NC Environmental Management Commission which is located within the Edgecombe County planning Jurisdiction and which is located one-half mile upstream from a public water supply intake located directly in the Tar River or the ridge line of the watershed, whichever comes first.

The WPA, watershed protected area overlay district consists of that portion of the Tar River public water supply watersheds designated by the NC Environmental Management Commission which are located within the Edgecombe County Planning Jurisdiction and which are located within ten miles upstream from and draining to the public water supply intake on the Tar River or to the ridge line of the watershed, whichever comes first.

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 Official Watershed Map of Edgecombe County, North Carolina, which is adopted simultaneously herewith. The watershed map is hereby made a part of this ordinance, and will be permanently kept on file in the Edgecombe County Planning Office.

The watershed administrator is hereby established to be the same as the zoning administrator, and will take action on any remedy for violation of any portion of this ordinance. If a ruling of the watershed administrator is questioned, the aggrieved party or parties may appeal such ruling to the watershed review board, hereby established as the board of adjustment.

12-1.1. *General requirements.*

- (A) The regulations delineated in section 12-1 are intended to comply with the requirements of G.S. 143-214.5. For property located within a WCA or WPA overlay district, the provisions of section 12-1 shall apply only to new development activities that require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.



- (B) No structure or land use shall be allowed within the watershed protection overlay districts that pose a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

12-1.2. *Watershed critical area (WCA) supplemental standards.*

- (A) *Applicability.* The provisions of section 12-1.2 shall apply only to new development activities and expansion of existing uses that require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.
- (B) *Density and built-upon area.* Single-family residential uses shall not exceed a maximum density of two dwelling units per acre, as defined on a project-by-project basis. No single-family residential lot shall be less than 20,000 square feet in area, excluding roadway right-of-way, except within an approved cluster development, in accordance with section 12-1.5.

However, where public sewer service is not available, a minimum of 30,000 square feet in lot area shall be required for each single-family residential lot.

All other types of residential development, and all nonresidential development, shall not exceed 24 percent built-upon area, on a project-by-project basis. For purposes of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with section 12-1.11.

- (C) *Permitted uses.* Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WCA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WCA except for uses specified in section (D).
- (D) *Nonpermitted uses.*
 - (1) Sites for land application of residuals or petroleum contaminated soils;
 - (2) New landfills;

12-1.3. *Watershed protected area (WPA) supplemental standards.*



- (A) *Applicability.* The provisions of section 12-1.3 shall apply only to new development activities and expansion of existing uses that requires an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.
- (B) *Density and built-upon area.* Single-family residential uses shall not exceed a maximum density of two dwelling units per acre or three dwelling units per acre for projects without a curb and gutter road system, as defined on a project-by-project basis. No single-family residential lot shall be less than 20,000 square feet or 14,500 square feet for projects without a curb and gutter road system, unless located within an approved cluster development in accordance with section 12-1.5.

However, where public sewer service is not available, a minimum of 30,000 square feet in lot area shall be required for each single-family residential lot.

All other types of residential development, and all nonresidential development, shall not exceed 24 percent built-upon area, on a project-by-project basis. For projects without a curb and gutter street system, development shall not exceed 36 percent built-upon area on a project-by-project basis. For purposes of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with section 12-1.11.

- (C) *Permitted uses.* Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted within the WPA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WPA.

12-1.4. *Best management practices.*

- (A) *General.* The construction of new roads and bridges and nonresidential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices to minimize water quality impacts. To the extent practicable, the construction of new roads in the WCA Overlay District shall be avoided. The NC Department of Transportation shall use best management practices as outlined in its document entitled, Best Management Practices for the Protection of Surface Waters.
- (B) *Agricultural uses.* Agricultural uses are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624) and the rules and regulations of the Soil and Water Conservation Commission.
- (C) *Forestry operations.* Forestry operations, if allowed in the underlying general zoning district, are subject to the provisions of the Forest Practice Guidelines Related to Water Quality (15 ANCAC 11.0101-.0209).



12-1.5. *Cluster development.*

- (A) Cluster development is defined as 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.

Cluster development is allowed in all watershed protection overlay districts provided that the following conditions are met:

- (1) Minimum lot sizes may be reduced for single-family cluster development projects in accordance with the provisions of section 9-4.1; however, the total number of lots shall not exceed the maximum number of lots allowed for single-family detached developments in sections 12-1.2(B) and 12-1.3(B). Density or built-upon area requirements for the project shall not exceed that allowed in sections 12-1.2(C) and 12-1.3(C).
- (2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (3) The remainder of the tract not built upon shall remain in a vegetated or natural state. The title to the reserved open space area shall be conveyed to an incorporated homeowners or property owners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

12-1.6. *Buffer areas.*

- (A) A minimum 30-foot vegetative buffer for new development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. A minimum 100-foot vegetative buffer is required for all new development activities that utilize the high density development option authorized by section 12-1.11. Desirable artificial streambank or shoreline stabilization is permitted. (Note: See section 12-3.3 for additional requirements for buffers. The more stringent rule shall apply.)
- (B) No new development is allowed in the buffer except for water-dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious areas, and public projects such as road crossings and greenways where no practicable alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices. Desirable artificial streambank or shoreline stabilization is permitted.



- (C) Whenever the buffer requirements of other portions of this ordinance, are in conflict with the provisions of this section, the more stringent requirement shall apply.
- (D) For more information on buffers, see the State of North Carolina Department of Environment and Natural Resources, Division of Water Quality, Procedures for Assignment of Water Quality Standards, section 15 A NCAC 02B .0259 on the Tar-Pamlico River Basin, and where in conflict with the provisions of this section, the stricter rule shall apply.

12-1.7. *Existing development.*

- (A) "Existing development" is defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:
 - (a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
 - (b) Having an outstanding valid building permit as authorized by G.S. 153A-344.1, or
 - (c) Having an approved site specific or phased development plan as authorized by G.S. 153A-344.1.

Existing development is not subject to the provisions of the watershed overlay district requirements. Redevelopment of and expansion to existing development is allowed as provided for herein.

- (B) Redevelopment of existing development is allowed if the rebuilding activity does not result in a net increase in built-upon area or if the redevelopment activity includes equal or greater stormwater control than the previous development. However, existing single-family residential development may be redeveloped without any restrictions.
- (C) Expansions to uses and structures classified as existing development must meet the requirements of this section provided, however, that the built-upon area of the existing development is not required to be included in the built-upon area calculations. However, existing single-family residential development may be expanded without any restrictions.
- (D) A "nonconforming lot" is defined as a lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this ordinance or any subsequent amendment.

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.

12-1.8. *(Reserved)*



12-1.9. *Variances.*

- (A) *Minor variances.* A minor variance is defined as a variance from the watershed overlay district requirements that results in a relaxation, by a factor of up to five percent, of any buffer, density or built-upon area requirements delineated in sections 12-1.11 and 12-1.12 or that results in a relaxation, by a factor of up to ten percent, of any management requirement in sections 12-1.2, 12-1.3, and 12-1.7.

Minor variances to the provisions of section 12-1 may be approved by the board of adjustment pursuant to the variance procedures outlined for the board of adjustment in article VII, specifically sections 7-2.1, section 7-2.3, and sections 7-4 through 7-12. The zoning administrator shall keep a record of all such minor variances and shall submit, for each calendar year, the record to the Water Quality Division of the NC Department of Environment and Natural Resources on or before January 1 of the following year. The record shall include a description of each project receiving a variance and the findings of fact on which the variance is based.

- (B) *Major variances.* A major variance is defined as a variance from the watershed overlay district requirements that results in any one or more of the following:
- (a) The complete waiver of any of the management requirements outlined in sections 12-1.2, 12-1.3, and 12-1.7.
 - (b) The relaxation, by a factor of greater than ten percent, of any of the above-referenced management requirements.
 - (c) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.
 - (d) The relaxation, by a factor greater than five percent, of any buffer, density or built-upon area requirement under the high density option.

Major variances, as defined in section 2-4, shall be reviewed by the board of adjustment pursuant to the procedures outlined in this article and a recommendation prepared for submission to the NC Environmental Management Commission (EMC). The record of a major variance review shall include the following items:

- (1) The variance application;
- (2) The hearing notices;
- (3) The evidence presented;
- (4) Motions, offers of proof, objections to evidence, and rulings on them;



- (5) Proposed findings and exceptions;
- (6) The board of adjustment's recommendation, including all conditions proposed to be added to the permit.

Upon receiving the record of a major variance review from the board of adjustment, the EMC shall (i) review the variance request, (ii) prepare a final decision on the request, and (iii) forward its decision to the board of adjustment. If the EMC approves the variance as proposed, the board of adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the board of adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance. If the EMC denies the variance request, the board of adjustment shall prepare a final decision denying the variance.

12-1.10. *(Reserved)*

12-1.11. *High density development option.*

- (A) Upon approval by the planning staff, a high density option may be authorized provided that the requirements of this subsection are met.
 - (1) Within the WCA overlay district, new development may exceed the density and built-upon area standards set forth in sections 12-1.2 (B) and (C) provided that (a) engineered stormwater controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 50 percent. Within the WPA overlay district, new development may exceed the density and built-upon area standards set forth in sections 12-1.3 (B) and (C) provided that (a) engineered stormwater controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 70 percent.
 - (2) The engineered stormwater controls required in subsection (1) shall be designed in accordance with section 12-1.12.
 - (3) Financial assurance for the purpose of maintenance, repairs, or reconstruction of stormwater control structures shall be provided pursuant to section 12-1.13.
 - (4) Stormwater control structures shall be maintained and inspected in accordance with the provisions of section 12-1.14.
 - (5) An occupancy permit shall not be issued for any building within the permitted development until the planning staff has approved the stormwater control structure, as provided in section 4-8.
 - (6) All site plans for developments proposing to utilize the high density option must be



reviewed by the planning staff.

- (7) All pertinent permits are to be acquired at the Edgecombe County Office of Planning and Inspections prior to beginning any work.

12-1.12. *Stormwater control structures.*

- (A) Developments located within watershed overlay districts that have been approved for the high density development option authorized in section 12-1.11 shall comply with the requirements of this section.
- (B) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects, to the extent that the G.S. ch. 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in G.S. 89(C)-3(7).
- (C) All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in subsection (D), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
 - (1) Wet detention ponds shall be designed to remove 85 percent of total suspended solids in the permanent pool and storage runoff from a one-inch rainfall from the site above the permanent pool;
 - (2) The designed runoff storage volume shall be above the permanent pool;
 - (3) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days;
 - (4) The mean permanent pool depth shall be a minimum of three feet;
 - (5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features; and
 - (6) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.



- (D) Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. The design criteria for approval shall be 85 percent average annual removal of total suspended solids. Also, the discharge rate shall meet one of the following criteria:
- (1) The discharge rate following the one-inch design storm shall be such that the runoff draws down to the prestorm design stage within five days, but not less than two days; or
 - (2) The post development peak discharge rate shall equal the predevelopment rate for the one-year, 24-hour storm.
- (E) In addition to the vegetative filters required in subsection (C)(6) above, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within 30 days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in section 12-1.13(C).
- (F) A description of the area containing the stormwater control structure shall be prepared and filed, consistent with section 12-1.14(I) and (J), as a separate deed with the county register of deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (G) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

12-1.13. *Financial security for stormwater control structures.*

- (A) All new stormwater control structures authorized in section 12-1.12(A), section 12-3.4, and the Edgecombe County Stormwater Management Program for Nutrient Control shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structures.
- (B) Financial assurance shall be in the form of the following:
- (1) *Surety performance bond or other security.* The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to Edgecombe County or placed in escrow with a financial institution designated as an official depository of Edgecombe County. The bond or other instrument shall be in an amount equal to 1.5 times the total cost of the stormwater



control structure, as estimated by Edgecombe County and approved by the board of commissioners. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

- (2) *Cash or equivalent security deposited after the release of the performance bond.* Consistent with section 12-1.14(K)(1), the permit applicant shall deposit with Edgecombe County either cash or other instrument approved by the board of commissioners that is readily convertible into cash at face value. The cash or security shall be in an amount equal to 15 percent of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under section 12-1-14(A). The amount shall be computed by estimating the maintenance cost for 25 years and multiplying this amount by two-fifths or 0.4.
- (C) The permit applicant shall enter into a binding operation and maintenance agreement between Edgecombe County and all interests in the development. Said agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the Edgecombe County Register of Deeds.
- (D) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as spelled out in the performance bond or other security, the board of commissioners may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The board of commissioners shall return any funds not spent in completing the improvements to the owning entity.
- (E) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the board of commissioners shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The board of commissioners shall not return any of the deposited cash funds.

12-1.14. *Maintenance and inspection of stormwater control structures.*

- (A) An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure authorized in section 12-1.11, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance



agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.

- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.
- (C) Except for general landscaping and grounds management, the owning entity shall notify the planning department prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the planning department shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements. The planning department may consult with an engineer or landscape architect (to the extent that the G.S. ch. 89A allow) designated by the board of commissioners.
- (D) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the board of commissioners. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the G.S. ch. 89A allow) and submitted to and reviewed by the planning department prior to consideration by the board of commissioners.
 - (1) If the board of commissioners approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the office of the planning department.
 - (2) If the board of commissioners disapproves the changes, the proposal may be revised and resubmitted to the board of commissioners as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (E) If the board of commissioners finds that the operation and maintenance plan or manual is inadequate for any reason, the board of commissioners shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the Edgecombe County Register of Deeds, the office of the planning department and the owning entity.
- (F) Processing and inspection fees shall be submitted in the form of a check or money order made payable to Edgecombe County. Applications shall be returned if not accompanied by the required fee.
- (G) A permit and inspection fee schedule, as approved by the board of commissioners, shall be posted in the office of the planning department.



- (H) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with subsection (C) above, except in the case when a similar fee has been paid within the last 60 days.
- (I) The stormwater control structure shall be inspected by an engineer or landscape architect designated by the board of commissioners, after the owning entity notifies the county that all work has been completed. At this inspection, the owning entity shall provide:
- (1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Edgecombe County Register of Deeds;
 - (2) A certification sealed by an engineer or landscape architect (to the extent that the G.S. ch. 89A, allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.
- (J) The county's consulting engineer or landscape architect shall present the materials submitted by the developer and the inspection report and recommendations to the board of commissioners at its next regularly scheduled meeting.
- (1) If the board of commissioners approves the inspection report and accepts the certification, deed and easements, the board of commissioners shall file the deed and easements with the Edgecombe County Register of Deeds, release up to 75 percent of the value of the performance bond or other security and issue an occupancy permit for the stormwater control structure.
 - (2) If deficiencies are found, the board of commissioners shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the board of commissioners.
- (K) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the board of commissioners to release the remaining value of the performance bond or other security. Upon receipt of said petition, the county's consulting engineer or landscape architect shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The consulting engineer or landscape architect shall present the petition, inspection report and recommendations to the board of commissioners.
- (1) If the board of commissioners approves the report and accepts the petition, the developer shall deposit with the county a cash amount equal to that described in section 12-1.13(B)(2) after which, the board of commissioners shall release the performance bond or other security.
 - (2) If the board of commissioners does not accept the report and rejects the petition, the board of commissioners shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release the performance bond or other



security.

- (L) All stormwater control structures shall be inspected by the county at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Water Quality. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.
- (M) In the event that the planning department discovers the need for corrective action or improvements, the planning department shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the planning department shall inspect and approve the completed improvements. The planning department may consult with an engineer or landscape architect (to the extent that the G.S ch. 89A, allow) designated by the board of commissioners.

(Ord. of 9-13-2004(2))

Sec. 12-2. Flood hazard district overlay requirements.

Section 12-2 shall apply to all special flood hazard areas within the county outside the corporate or extraterritorial jurisdiction of any municipality. This section shall also apply within the jurisdiction of any municipality whose governing body agrees, by resolution, to such applicability.

The flood hazard overlay district (FHO), as established in section 9-1.7(A), is designed for the purpose of protecting people and property from the hazards of flooding.

Purpose and objectives--See article 1-3.11.

Abrogation--See article 1-6.

Compliance--See article 1-7.

Interpretation/minimum requirements--See article 2-1.1.

Greater restrictions govern--See article 2-1.2.

12-2.1. *Statutory authorization.* The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the G.S., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

12-2.2. *Findings of fact.*

- (1) The flood prone areas within the jurisdiction of Edgecombe County are subject to periodic



inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

12-2.3. *Definitions.* Unless specifically defined below, words or phrases used throughout section 12-2 and other sections of this Code referenced within section 12-2 shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Accessory structure (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO zone on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard. See "special flood hazard area (SFHA)."

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

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means a determination as published in the flood insurance study of the water surface elevations of the base flood.

Building. See "structure."

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



Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Disposal defined as in G.S. 130A-290(a)(6).

Elevated building means a non-basement building that has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent 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 means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is pre-FIRM.

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

- (1) The overflow of inland or tidal waters; and,
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.

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

Flood insurance rate map (FIRM) means an official map of a community, issued by 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) means an examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Floodplain or flood prone area means any land area susceptible to being inundated by water from any



source.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations.

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

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood prone area. See "floodplain."

Floodway means 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 means a geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floor. See "lowest floor."

Freeboard means the additional amount of height added to the base flood elevation (BFE) to account for uncertainties in the determination of flood elevations. See also regulatory flood protection elevation.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous waste management facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in G.S. 130A-9.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure means any structure that is:



- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places;
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest adjacent grade (LAG) means the elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

Lowest floor means the subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.



Mean sea level means the average height of the sea for all stages of the tide. For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New construction means structures for which the "start of construction" commenced on or after the effective date of the original version of this ordinance and includes any subsequent improvements to such structures.

Nonconforming building or development means any legally existing building or development that fails to comply with the current provisions of this ordinance.

Non-encroachment area means 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.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Post-FIRM means construction or other development which started on or after January 1, 1975 or on or after the effective date of the initial flood insurance rate map for the area, whichever is later.

Pre-FIRM means construction or other development which started before January 1, 1975 or before the effective date of the initial flood insurance rate map for the area, whichever is later.

Public safety and/or nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle (RV) means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and,
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.



Reference level is the portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of such building. Within special flood hazard areas designated as zones A1--A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor or lowest attendant utility including ductwork, whichever is lower.

Regulatory flood protection elevation means the elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if non-residential. Within areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two feet above the highest adjacent grade.

Remedy a violation means to bring the structure or other development into compliance with state or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during any ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Retrofitting means measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

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

Salvage yard means property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

Solid waste disposal facility means any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site defined as in G.S. 130A-290(a)(36).

Special flood hazard area (SFHA) is the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 12-2.5 of this ordinance.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation,



such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

Substantial damage means damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement." Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" including substantial damage by repetitive loss, regardless of the actual repair work performed. The term does not, however, include either:

- (a) 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,
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home park or subdivision means where the repair, reconstruction, rehabilitation or improvement of the roads, utilities and pads equals or exceeds 50 percent of the value of the roads, utilities and pads before the repair, reconstruction, or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 12-2.10 is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial



flood damage may occur.

Water surface elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

12-2.4. *Lands to which this section applies.* The provisions of section 12-2 shall apply to all special flood hazard areas within the jurisdiction of Edgecombe County and within the jurisdiction, including extra-territorial jurisdictions (ETJ) if applicable, of any other community whose governing body agrees, by resolution, to such applicability.

12-2.5. *Basis for establishing the special flood hazard areas.* The special flood hazard areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the cooperating technical state (CTS) agreement between the state of North Carolina and FEMA in its flood hazard boundary map (FHBM) or flood insurance study (FIS) and its accompanying flood maps such as the flood insurance rate map(s) (FIRM) and/or the flood boundary floodway map(s) (FBFM), for Edgecombe County dated November 3, 2004, which with accompanying supporting data, and any revision thereto, including letters of map amendment or revision, are adopted by reference and declared to be a part of this ordinance. The special flood hazard areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

- (1) Generated as a requirement of section 12-2.11(11 and 12) this section;
- (2) Preliminary FIRMs where more stringent than the effective FIRM; or
- (3) Post-disaster flood recovery maps.

12-2.6. *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within special flood hazard areas as determined in section 12-2.5.

12-2.7. *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Actual flood heights may be increased by man-made or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Edgecombe County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

12-2.8. *Penalties for violation.* Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Edgecombe County from taking such other lawful action as is



necessary to prevent or remedy any violation.

12-2.9. *Designation of floodplain administrator.* The planning director or designee, hereinafter referred to as the "floodplain administrator," is hereby appointed to administer and implement the provisions of this ordinance.

12-2.10. *Floodplain development permit and certification requirements.*

(1) *Plans and application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities proposed to be located within flood prone areas. The following items/information shall be presented to the floodplain administrator 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:
 - i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
 - ii) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 12-2.5 or a statement that the entire lot is within the special flood hazard area;
 - iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 12-2.5;
 - iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in section 12-2.5;
 - v) The base flood elevation (BFE) where provided as set forth in section 12-2.5; section 12-2.11(11 and 12).
 - vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - vii) preparation of the plot plan by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
- (b) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
 - i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;



- ii) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
 - iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- (c) If floodproofing, a floodproofing certificate and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the flood-proofing criteria in section 12-2.14(2) and section 12-2.15(6)(b).
- (d) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);
 - ii) Should solid foundation perimeter walls be used in floodplains, details of sufficient openings to facilitate the unimpeded movements of floodwaters in accordance with section 12-2.14(4);
- (e) Usage details of any enclosed space below the regulatory flood protection elevation.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- (g) Copy of all other local, state and federal permits required prior to floodplain development permit issuance (i.e. wetlands, erosion and sedimentation control, riparian buffers, mining, etc.)
- (h) If floodplain development permit is issued for placement of recreational vehicles and/or temporary structures, documentation to ensure section 12-2.14(6 and 7) of this code are met.
- (i) If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) *Floodplain development permit data requirements.* The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this Code.
- (a) A description of the development to be permitted under the floodplain development permit issuance.
 - (b) The special flood hazard area determination for the proposed development per available data



specified in section 12-2.5.

- (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) State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.
 - (g) If in an A, AO, AE or A1--30 zone, specify the minimum foundation opening requirements.
 - (h) State limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (3) *Certification requirements.*
- (a) An elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA form 81-65) is required after the reference level is completed. Within 21 calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.
 - (b) A final as-built elevation certificate (FEMA form 81-31) or floodproofing certificate (FEMA form 81-65) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to



certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy.

- (c) If a manufactured home is placed within an A, AO, AE, or A1--30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per section 12-2.14(3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification exemptions. The following structures, if located within A, AO, AE or A1--30 zones, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - i) Recreational vehicles meeting requirements of section 12-2.14(6)(a);
 - ii) Temporary structures meeting requirements of section 12-2.14(7); and
 - iii) Accessory structures less than 150 square feet meeting requirements of section 12-2.14(8).

12-2.11. *Duties and responsibilities of the floodplain administrator.* Duties of the floodplain administrator shall include, but not be limited to:

- (1) Review all floodplain development applications and issue permits for all proposed development within flood prone areas to assure that the requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional federal or state permits (i.e., wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (3) Notify adjacent communities and the North Carolina 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 the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments within floodways and non-encroachment areas unless the certification



and flood hazard reduction provisions of section 12-2.17 are met.

- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with section 12-2.10(3).
- (7) Obtain the 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 section 12-2.10(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with section 12-2.10(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section 12-2.10(3) and section 12-2.14(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation (BFE) data has not been provided in accordance with section 12-2.5, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to section 12-2.15(6)(d), in order to administer the provisions of this ordinance.
- (12) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with section 12-2.5, obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the exact location of boundaries of the special flood hazard areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a letter of map amendment (LOMA) by FEMA. A copy of the letter of map amendment issued from FEMA will be maintained by the floodplain administrator in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local



ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revocation of floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- (18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of section 12-2.12.

12-2.12. *Corrective procedures.*

- (1) *Violations to be corrected:* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- (2) *Actions in event of failure to take corrective action:* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the flood damage prevention ordinance;
 - (b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence



pertaining to the matter; and,

- (c) That following the hearing, the floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (3) *Order to take corrective action:* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 days. Where the floodplain administrator 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.
- (4) *Appeal:* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) *Failure to comply with order:* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

Variance Procedures--See article 7-2.2.

Provisions for flood hazard reduction.

12-2.13. *Development within special flood hazard areas restricted-general standards.* In all special flood hazard areas the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) No new nonresidential building, with the exception of public utility structures, may be constructed and no substantial improvements of a nonresidential building may take place within any special flood hazard area except in accordance with section 12-2.14(2) of this section.
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities



shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.

- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, 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 such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (11) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in special flood hazard areas. 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 according to section 12-2.10(3) of this Code.
- (12) Whenever any portion of an area of special flood hazard outside of the floodway is filled in with fill dirt, slopes shall be adequately stabilized to withstand the erosive force of the base flood. No fill may encroach into the floodway.

12-2.14. *Specific standards.* In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 12-2.5, or section 12-2.11(11 and 12), the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement,



elevated no lower than the regulatory flood protection elevation.

- (2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. 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 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 12-2.10(3).
- (3) *Manufactured homes.*
 - (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation. However, the crossover duct may be installed below the regulatory flood protection elevation, but in no case may be lower than the base flood elevation.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with 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 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
 - (c) All foundation enclosures or skirting shall be in accordance with section 12-2.14(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.
- (4) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level in A, AO, AE, and A1--30 zones and meet the following design criteria:
 - (a) Measures for complying with this requirement shall be designed to automatically



equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:

- i) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - ii) The total net area of all openings must be at least one square inch for each square foot of each enclosed area subject to flooding.
 - iii) If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;
 - iv) The bottom of all required openings shall be no higher than one foot above the adjacent grade; and,
 - v) Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - vi) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - vii) Foundation enclosures:
 - 1) Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
 - 2) Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
- (b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- (5) *Additions/improvements.*
- (a) Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
 - i) Are not a substantial improvement, the addition and/or improvements must be



designed to minimize flood damages and must not be any more non-conforming than the existing structure.

- ii) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (b) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:
 - i) Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - ii) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
- (6) *Recreational vehicles.* Recreation vehicles placed on sites within a special flood hazard area shall either:
 - (a) 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
 - (b) Meet all the requirements for new construction, including anchoring and elevation requirements of section 12-2.10, section 12-2.13 and section 12-2.14(3).
- (7) *Temporary structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:
 - (a) Applicants must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
 - i) A specified time period for which the temporary use will be permitted;
 - ii) The name, address, and phone number of the individual responsible for the removal of the temporary structure;



- iii) The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - iv) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
 - v) Designation, accompanied by documentation, of a location outside the special flood hazard area to which the temporary structure will be moved.
- (b) The above information shall be submitted in writing to the floodplain administrator for review and written approval.
- (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall be designed to have low flood damage potential;
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (d) Accessory structures shall be firmly anchored in accordance with section 12-2.13(1);
 - (e) All service facilities such as electrical and heating equipment shall be installed in accordance with section 12-2.13(5); and
 - (f) Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with section 12-2.14(4)(a).
 - (g) An accessory structure with a footprint less than 150 square feet that meets the above outlined criteria does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 12-2.10(3).

12-2.15. *Special provisions for subdivisions, manufactured home parks and major developments.*

- (1) An applicant for subdivision plat, manufactured home park, or major development approval shall be informed by the floodplain administrator of the use and construction restrictions contained in section 12-2 if any portion of the proposed development lies within a special flood hazard area.
- (2) Final plat approval for any subdivision, manufactured home park, or major development containing land that lies within a special flood hazard area may not be given unless the plat



shows the boundary of the special flood hazard area and floodway boundary and contains, in clearly discernible print, the following statement: "Use of land within a special flood hazard area is substantially restricted by section 12-2 of the Edgecombe County Unified Development Ordinance."

- (3) Subject to the following sentence, a request for final plat approval for any subdivision, manufactured home park, or major development may not be granted if:
- (a) The proposed development lies within a zone where residential uses are permissible and it reasonably appears that the subdivision, manufactured home park, or major development is designed to create residential building lots; and
 - (b) Any portion of one or more lots of the proposed development lies within a special flood hazard area; and
 - (c) It reasonably appears that one or more lots described in subsections (3)(a) or (3)(b) could not practicably be used as a residential building site because of the restrictions set forth in section 12-2.

The foregoing provision shall not apply if a notice that the proposed lots are not intended for sale as residential building lots is recorded on the final plat, or if the developer otherwise demonstrates to the satisfaction of the authority approving the final plat that the proposed lots are not intended for sale as residential building lots.

- (4) Any lot wholly contained within a special flood hazard area shall be a minimum of five acres in size.
- (5) When a portion of a lot lies within a special flood hazard area, that portion shall not be counted towards the minimum lot size. Minimum lot size area shall be calculated exclusive of the special flood hazard area.
- (6) All subdivision, manufactured home park, and major development proposals shall:
- (a) Be consistent with the need to minimize flood damage;
 - (b) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (c) Have adequate drainage provided to reduce exposure to flood hazards; and,
 - (d) Have base flood elevation (BFE) data provided if development is greater than the lesser of five acres or 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per section 12-2.5 to be utilized in implementing this Code.

12-2.16. *Standards for floodplains without established base flood elevations.* Within the special flood



hazard areas established in section 12-2.5, where no base flood elevation (BFE) data has been provided, the following provisions shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of 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 shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If section 12-2.16(1) is satisfied and base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with elevations established in accordance with section 12-2.11(11 and 12). When base flood elevation (BFE) data is not available from a federal, state, or other source, the reference level, including basement, shall be elevated at least two feet above the highest adjacent grade.

12-2.17. *Standards for floodplains with BFE but without established floodways or non-encroachment areas.* Along rivers and streams where base flood elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-2.18. *Floodways and non-encroachment areas.* Located within the special flood hazard areas established in section 12-2.5 are areas designated as floodways or non-encroachment areas. 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 shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.
- (2) If section 12-2.18(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:



- (a) The anchoring and the elevation standards of section 12-2.14(3); and
- (b) The non-encroachment standards of section 12-2.18(1) are met.

12-2.19. *Standards for areas of shallow flooding (AO zones).* Located within the special flood hazard areas established in section 12-2.5, 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. The following provisions shall apply within such areas:

- (1) All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map (FIRM), in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the special flood hazard areas where no BFE has been established.
- (2) All new construction and substantial improvements of non-residential structures shall have the option to, in lieu of elevation, be completely floodproofed together with attendant utilities and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per section 12-2.10(3) and section 12-2.14(2).

12-2.20. *Legal status provisions.*

(A) *Effect on rights and liabilities under the existing flood damage prevention ordinance.* This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted August 3, 1981, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Edgecombe County enacted on August 3, 1981, as amended, which are not reenacted herein are repealed.

(B) *Effect upon outstanding building permits.* Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to passage of this ordinance or any revision thereto, construction or use shall be in conformity with the provisions of this ordinance.
(Ord. of 10-4-2004(1), § 6; Ord. of 5-1-2006(1), § 1)

Sec. 12-3. Stormwater management.

The general standards contained in this section shall apply throughout the planning jurisdiction. However, developments located within watershed protection overlay districts shall comply with the applicable



additional requirements of section 12-1.

12-3.1. *Natural drainage system utilized to extent feasible.*

- (A) To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting manmade drainage ways shall remain undisturbed.
- (B) To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting manmade drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.

12-3.2. *Developments must drain properly.*

- (A) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
 - (1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or
 - (2) The retention is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.
- (B) No surface water may be channeled or directed into a sanitary sewer.
- (C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads.
- (D) All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:
 - (1) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and
 - (2) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

12-3.3. *Tar-Pamlico River Basin Riparian Buffer requirements.*

- (A) *Applicability.*



- (1) The riparian buffer regulations of this subsection shall apply to all areas of the county outside of any municipal boundary or its extraterritorial jurisdiction.
 - (2) Existing and ongoing uses within the riparian buffer, if existing as of January 1, 2000, may be exempt from the requirements of this subsection in accordance with the provisions of 15A NCAC 2B .0259.
- (B) *Definitions.* Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used throughout section 12-3.3.
- (1) *Intermittent stream.* 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 conveyance of water.
 - (2) *Perennial stream.* 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 continuance conveyance of water.
 - (3) *Riparian buffer.* The 50-foot wide area directly adjacent to surface waters in the Tar-Pamlico River Basin (intermittent streams, perennial streams, lakes, ponds, and estuaries), excluding wetlands. For purposes of this definition, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
- (C) *General requirements.* The Tar-Pamlico Riparian Buffer Protection Rule (15A NCAC 2B .0259) requires that a 50-foot riparian buffer be maintained on all sides of intermittent and perennial streams ponds, lakes and estuarine waters in the basin. This 50-foot buffer shall be measured beginning at the most landward limit of the top of the bank or the rooted herbaceous vegetation. Where obvious conflicts exist between actual field conditions and USGS and county soil survey maps, appeals may be made to the North Carolina Division of Water Quality (DWQ).

Edgecombe County shall disapprove any new development activity proposed within the 50-foot riparian buffer unless the applicant can show that the activity has been approved by the DWQ. DWQ approval may consist of the following:

- (1) An on-site determination that surface waters are not present.



- (2) An authorization certificate from DWQ for an allowable use such as a road crossing or utility line, or for a use that is allowable with mitigation along with a DWQ-approved mitigation plan.
 - (3) A documented opinion from DWQ that vested rights have been established for the proposed development activity.
 - (4) A letter from DWQ documenting that a variance has been approved for the proposed development activity.
- (D) *Description of buffer zones and allowable activities.* The riparian buffer is divided into two zones, moving landward from the surface water, that are afforded different levels of protection. Zone 1, the first 30 feet, is to remain essentially undisturbed. Zone 2, the outer 20 feet, must be vegetated but may be managed in certain ways. Zones 1 and 2 of the riparian buffer are specifically described in 15 NCAC 2B .0259 (4)(a), Zones of the Riparian Buffer. Allowable uses within the riparian buffer are specifically described in 15 NCAC 2B .0259 (6), Table of Uses.
- (E) *Development plan requirements.* Site plans and subdivision plats for property containing a riparian buffer shall include the location and width of the buffer.

Site plans shall demonstrate maintenance of diffuse flow to the buffer.

12-3.4. *Nutrient control requirements.*

- (A) *Applicability.*
- (1) The nutrient control regulations of this section shall apply to all areas of the county outside of any municipal boundary or its extraterritorial jurisdiction, with the following exclusions; federal, state, and local governments (including their agencies) unless intergovernmental agreements have been established giving Edgecombe County enforcement authority.
 - (2) The regulations of this subsection are intended to comply with the requirements of the Tar-Pamlico Stormwater Rule (15A NCAC 2B .0258) and the Edgecombe County Stormwater Management Program for Nutrient Control.
- (B) *Definitions.* Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used throughout sections 12-3.4 and 12-3.5.
- (1) *Best management practices (BMPs).* A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.



- (2) *Disturbed area.* Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation including but not limited to grubbing, stump removal, grading or removal of structures.
- (3) *Illegal connection.* Means either of the following:
 - (a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency;
or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (4) *Illegal discharge.* Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.
- (5) *New development.* Any activity that disturbs greater than one acre of land in order to establish, expand, replace or modify a single-family or duplex residential development or recreational facility and any activity that disturbs greater than one-half acre of land to establish, expand, replace or modify a multi-family residential development or a commercial, industrial, or institutional facility. For individual single family residential lots of record that are not part of a larger common plan of development or sale, the activity must also result in greater than ten percent built-upon area. For purposes of this section, new development shall not include mining, agricultural (including Swine Farm operations and other intensive livestock operations) or forestry activities. Projects meeting the above criteria that replace or expand existing structures or improvements and that do not result in a net increase in built-upon area shall not be required to meet the basin-wide average non-urban loading levels.
- (6) *Nutrients.* Nitrogen and phosphorus, which if present in excessive amounts within a water body, can lead to large growths of algae, low dissolved oxygen concentrations, and other water quality problems.
- (7) *Qualified professional.* A professional licensed and/or registered in the State of North Carolina performing services only in their area(s) of competence.



- (8) *Stormwater conveyance system or structure.* Any feature, natural or manmade, that collects and transports stormwater, including but not limited to roadways with collection systems, catch basins, manmade and natural channels, streams, pipes and culverts, and any other structure or system designed to transport runoff.
 - (9) *Waters of the state.* Surface waters within or flowing through the boundaries of the state including the following: any ephemeral, intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof.
- (C) *General requirements.*
- (1) *New development.* Applicants proposing new development shall submit a stormwater management plan, signed and sealed by a qualified professional, that complies with the following criteria in accordance with section 2 of the Edgecombe County Stormwater Management Program for Nutrient Control:
 - (a) The nitrogen load contributed by the new development shall not exceed 4.0 pounds per acre per year and the phosphorus load shall not exceed 0.4 pounds per acre per year.
 - (b) The nitrogen and phosphorus exports must be calculated in accordance with section 2-C and 2-D of the Edgecombe County Stormwater Management Program for Nutrient Control.
 - (c) If the computed export loads exceed those required in subsection (a) above, options exist for lowering the export loads through onsite or offsite measures or some combination thereof as described in sections 2-D, 2-F, and 2-G of the Edgecombe County Stormwater Management Program for Nutrient Control.
 - (2) *Erosion of surface water conveyances.*
 - (a) All new development must not cause erosion of surface water conveyances. At a minimum, post-development peak flows leaving the site may not exceed pre-development for the one-year, 24-hour storm event. Peak runoff must be calculated in accordance with section 2-E of the Edgecombe County Stormwater Management Program for Nutrient Control.
 - (b) Exceptions to peak flow attenuation requirements are described in section 2-E of the Edgecombe County Stormwater Management Program for Nutrient Control.
- (D) *Requirements of BMP maintenance.*
- (1) If best management practices (BMPs) are used to achieve the nitrogen and phosphorus loading and flow attenuation requirements, they must be designed in accordance with the



requirements of section 2-D of the Edgecombe County Stormwater Management Program for Nutrient Control, and an operation and maintenance plan for the BMPs shall be submitted by the applicant and approved by the county in accordance with the requirements of section 2-H of the Edgecombe County Stormwater Management Program for Nutrient Control. Owners' associations created to ensure maintenance of BMPs shall be established in accordance with the requirements of article X, section 10-5 of the Edgecombe County Unified Development Ordinance. Financial security for stormwater control structures shall be established in accordance with the requirements of article XII, section 12-1.13 of the Edgecombe County Unified Development Ordinance.

- (2) A legal stormwater maintenance agreement, as delineated in Appendix D, of the Edgecombe County Stormwater Management Program for Nutrient Control, shall be submitted to and approved by Edgecombe County. The agreement must be recorded in the Edgecombe County Register of Deeds prior to final approval or CO of the structure.
- (3) Annual inspections of all BMPs shall be in accordance with the provisions of section 2-H of the Edgecombe County Stormwater Management Program for Nutrient Control.

(E) *Appeals and variances.*

- (1) An appeal from any order of the stormwater administrator may be taken to the board of adjustment in accordance with the provisions of article VII, section 7-1.
- (2) An application for a variance from the provisions of the stormwater management provisions may be filed with the stormwater administrator in accordance with the provisions of article VII, section 7-2.

(F) *Enforcement.*

- (1) Violations of the provisions of this section shall be subject to the enforcement remedies and penalties in accordance with article V, of the Edgecombe County Unified Development Ordinance.

12-3.5. *Illegal discharges.*

- (A) No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the that the substance is likely to reach a stormwater conveyance or the waters of the state), any fluid, solid, gas, or other substance which is defined as an illegal discharge in section 3-B of the Edgecombe County Stormwater Management Program for Nutrient Control. No person shall cause or allow an illegal connection, as defined in section 12-3.4 (B)(3).
- (B) Procedures for identifying and removing illegal discharges/connections are delineated in sections 3-D, 3-E, and 3-F of the Edgecombe County Stormwater Management Program for Nutrient Control.



- (C) Violations of the provisions of this section shall be subject to the enforcement remedies and penalties in accordance with article V, of the Edgecombe County Unified Development Ordinance.

(Ord. of 9-13-2004(2))

Sec. 12-4. Soil erosion and sedimentation control.

- (A) No zoning, special use, or conditional use permit may be issued and preliminary plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the NC Sedimentation Control Commission under G.S. 113A-57(4) unless the commission has certified to the county, either that:
 - (1) An erosion control plan has been submitted to and approved by the commission; or
 - (2) The commission has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the commission approves the erosion control plan.
- (B) For purposes of this section, "land disturbing activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under G.S. 113A-52(6)). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

Sec. 12-5. Coordination with the U.S. Army Corps of Engineers regarding wetlands.

If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, federal permit authorization may be required from the U.S. Army Corps of Engineers prior to commencement of earth-disturbing activities. The U.S. Army Corps of Engineers shall be notified by the developer or person proposing such earth-disturbing activities for possible issuance of section 404 or other permits.

Sec. 12-6. Airport overlay district requirements.

- (A) The airport overlay (AO) district, as established in section 9-1.7 (B), is not intended to be utilized as a district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the district to which such designation is attached, appended or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.



- (B) It is the intent of this section to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Tarboro-Edgecombe County Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, the AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of this section with other regulations duly established by the County of Edgecombe whose primary intent is to further the purposes set out above.
- (C) The following definitions shall apply to this section:
- (1) *Airport.* Tarboro-Edgecombe County Airport.
 - (2) *Airport elevation.* The highest point of the airport's useable landing area measured in feet above mean sea level (52.0 feet).
 - (3) *Approach surface.* A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in subsection (4) below.
 - (4) *Approach zones.* The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
 - (5) *Conical surface.* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.
 - (6) *Conical zone.* The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet and upward at a slope of 20:1.
 - (7) *Hazard to navigation.* An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.
 - (8) *Height.* For the purpose of determining the height limits in the airport height restrictive area, the datum shall be mean sea level elevation unless otherwise specified.
 - (9) *Horizontal surface.* A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.
 - (10) *Horizontal zone.* The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of the 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.

- (11) *Larger than utility runway.* A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
- (12) *Nonconforming use.* Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.
- (13) *Nonprecision 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 nonprecision instrument approach procedure has been approved or planned.
- (14) *Obstruction.* Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in subsection (D).
- (15) *Person.* An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- (16) *Precision instrument runway.* A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
- (17) *Primary surface.* A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each 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. The width of the primary surface is 500 feet.
- (18) *Runway.* A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (19) *Transitional surfaces.* These surfaces extend outward at right angles (90 degree angles) to the runway centerline and extend at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- (20) *Transitional zones.* The transitional zones are the areas beneath the transitional surfaces.
- (21) *Tree.* Any object of natural growth.
- (22) *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.

- (23) *Visual runway.* A runway intended solely for the operation of aircraft using visual approach procedures.
- (D) Except as otherwise provided in this section, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this ordinance to a height in excess of the applicable height limitations herein established for each zone in questions as follows:
- (1) *Approach zone (AO-A).* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 2,000 feet.
 - (2) *Transitional zones (AO-T).* Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation (or 202 feet above mean sea level). In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
 - (3) *Horizontal zone (AO-H).* Established at 150 feet above the airport elevation or at a height of 202 feet above mean sea level.
 - (4) *Conical zone (AO-C).* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to an elevation of 402 feet above mean sea level.
- (E) Notwithstanding any other provisions of this section, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (F) The regulations prescribed by this section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this section, and is diligently prosecuted.
- (1) Notwithstanding the preceding provision of this subsection, 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 Tarboro-Edgecombe County Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Tarboro-Edgecombe County Airport Authority.

- (G) The zoning administrator shall not issue a zoning permit within an AO-A, AO-T, AO-H, or AO-C zone until he has been determined that the proposal upon which he is requested to act is in compliance with the terms of these regulations.
- (1) Except as specifically provided in (i), (ii), and (iii) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with subsection (G)(4).
- (i) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (ii) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (iii) In the areas lying within the limits of the transition zones, no permit shall be required for any tree or structure less than 75 feet above the ground, except when such tree or structure because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions, shall be construed as permitting or intending to permit any construction, alteration of any structure or growth of any tree in excess of any of the height limits established by this section except as set forth in subsection 12.6 (D).

- (2) No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard



to air navigation than it was on the effective date of this section, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

- (3) Whenever the zoning administrator determines that a nonconforming tree or structure has been abandoned or more than 60 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this ordinance.
- (4) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in compliance with the regulations prescribed in this section may apply to the board of adjustment for a variance in accordance with the provisions of section 7-2.4.

Sec. 12-7. Transportation corridor overlay district requirements.

The transportation corridor overlay district, as described in section 9-1.7, is established to provide specific appearance and operational standards for major highway corridors in Edgecombe County while accommodating development along the corridors. All uses in the transportation corridor overlay district (TCO) shall require site plan approval from the planning board. All other requirements of the underlying zoning districts shall also apply, with the more stringent regulations prevailing when standards conflict.

12-7.1. Procedures.

- (A) The applicant shall submit a site plan of the parcel and the proposed use to the zoning administrator. The planning director shall review the site plan and make recommendations to the planning board. Approval of the site plan and the proposed uses by the planning board authorizes the issuance of permits except for those uses that require additional approval by the board of adjustment or board of commissioners.
- (B) Permits are issued at each phase of development and only in accordance with the approved site plan.
- (C) If a site plan was approved and a use permit was issued for the development of a lot or lots, no subsequent change or expansion which was not shown on the site plan shall be allowed unless also approved by the planning board.

12-7.2. General standards.

- (A) A site development plan shall provide for the following:
 - (1) Convenient vehicular servicing of the buildings in the parking areas, and no undue interference with through traffic in gaining ingress to and egress from the proposed site;
 - (2) A vegetative buffer not less than 20 feet wide where the TCO district development abuts



a residential subdivision;.

- (3) A building group that is architecturally unified. Accessory buildings shall conform in appearance to the exterior design standards of the principal structure;
 - (4) Vehicular loading spaces in conformance with the requirements of section 11-2.7;
 - (5) Convenient and safely located pedestrian crosswalks;
 - (6) Signs in accordance with the requirements of section 11-1; and
 - (7) A maximum building height of 50 feet.
- (B) A traffic analysis indicating the estimated effect of the proposed development on adjacent existing road traffic, including volume flows to and from the development prepared by a registered professional engineer.
- (C) A preliminary plan or engineering feasibility report providing for the site grading, landscaping, storm drainage, sanitary sewerage, and water supply prepared by a licensed professional engineer.
- (D) A brief listing of intended deed restrictions.

12-7.3. *Usage of required setbacks.*

- (A) Sediment impoundments, boundary fences, gates and security stations may be located in any required yard.
- (B) Accessory buildings, other than as specified in subsection (A), shall not be located in any required road, side, or rear yard setback.
- (C) Parking and loading is permitted in any required yard, however, all parking and loading areas shall be a minimum of 20 feet from any lot line and 50 feet from any public road right-of-way. Loading areas shall be oriented such that they are not visible from any public road right-of-way.

12-7.4. *Landscaping of undeveloped areas.*

- (A) Those portions of the road, rear, or side yards that are not devoted to the uses, buildings, parking lots, and structures that are permitted within this section shall be landscaped in accordance with the following requirements:
 - (1) All site plan drawings shall include a landscaping plan which shows the area to be landscaped along with the types of trees, shrubs, or plants.
 - (2) When an area is required to be landscaped through vegetation, the requirements shall be



met by the installation and maintenance of a combination of trees, shrubs, grasses and other ground cover. For vegetative property lines adjacent to corridor rights-of-way, a minimum 50-foot wide buffer is required along the entire adjoining property line.

- (3) No less than one tree shall be planted for each 2,000 square feet of landscaped area.
- (4) When planted, all canopy trees shall be at least 10 percent of their mature height and all understory trees shall be at least 20 percent of their mature height. A "canopy tree" is a variety expected to reach a height in excess of 30 feet at maturity (e.g., oaks, pines, sycamores, etc). "Understory tree" is a variety not expected to reach a height of 30 feet at maturity (e.g., dogwoods, crepe myrtles, certain types of maples, etc).
- (5) All tree and plant material selections shall be native or adaptable to the Edgecombe County region and its climate.
- (6) When the required landscaping improvements have not been completed prior to the issuance of a building certificate of occupancy, the developer shall provide a guarantee in accordance with the requirements of section 11-3.8.

12-7.5. *Outdoor lighting.* All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from a major highway or from above.

12-7.6. *Landscaping at driveway and road intersections.* To ensure that landscape materials do not constitute a driving hazard, a sight triangle will be observed at all intersections of driveways with roads. Within this sight triangle, landscape materials, except for required grass or ground cover, shall not be permitted. The sight triangle shall be formed by measuring at least 25 feet along the driveway curb and 25 feet along the highway right-of-way and connecting these points. Road intersection sight triangles shall meet the above requirement or that of the North Carolina Department of Transportation, whichever is more stringent.

12-7.7. *Lot coverage.* The maximum lot coverage by total impervious surfaces such as roof tops, paving, walkways, etc. shall be 50 percent of the lot area except when stormwater is retained or detained on the site. Any additional runoff resulting from lot coverage in excess of 50 percent must be compensated for by such on-site detention or retention measures.

12-7.8. *Roads and access.*

- (A) Each building lot shall be limited to two points of ingress to and two points of egress from the adjacent access or major highway. Points of ingress and egress may be combined into one two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from an access road or highway shall not be allowed unless necessary to improve traffic movement or safety, increase sight distances, or similar reasons.
- (B) Ingress to and egress from a corner lot or lots may be limited to the feeder road and shall be prohibited within 175 feet of the intersection with the interchange along the highway for residential uses and 225 feet for industrial and commercial uses.



- (C) All points of ingress and egress to access roads or major highways shall be designed according to the applicable standards of the North Carolina Department of Transportation.
- (D) If the owners of two or more lots jointly provide a direct point of both ingress and egress to serve their lots, adequate provisions shall be made by dedication, covenants, restrictions, or other legal instruments for ensuring that such point of ingress and egress on such roads are provided and maintained consistent with the regulations and intent of this section of the ordinance.
- (E) Driveway widths and design shall conform to the applicable standards of the North Carolina Department of Transportation.
- (F) All roads, including frontage roads, rear access roads, and culs-de-sac shall be approved by the North Carolina Department of Transportation and dedicated to the public.

12-7.9. *Spacing standards.* The spacing standards of this section are intended to improve the compatibility of roadside uses with adjacent highways by ensuring the separation and proper location of ingress and egress.

- (A) The spacing requirements for lots with direct points of ingress and egress to highways shall be as follows:
 - (1) For lots with general uses, a minimum of 150 feet.
 - (2) For lots with conditional or special uses, a minimum of 200 feet.
- (B) The spacing requirements of this section shall be measured from the centerline of the nearest points of ingress and egress. The spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.
- (C) Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the zoning administrator may authorize a decrease in the spacing dimensions of up to 20 percent, provided that a record of why such decrease is necessary is made a part of the permit.

APPENDIX 1.

INFORMATION REQUIRED WITH APPLICATIONS

A-1-1. *Number of review and filing copies to be submitted.*

Type of Map or Plan	Review		Filing (after approval)	
	# of Prints	# of Prints	# of Mylars	# of Mylar As-Builts
Minor Plat	5	5	1	-



Sketch Plan	5	6	-	-
Development Plan	5	6	-	-
Final Plat	10	5	1	1
Plot Plan	2	2	-	-
Site Plan	15 Sets	6 Sets	-	-
• Site Layout				
• Water, Sewer and Drainage Utility				
• Landscaping Plan				
Street and Utility Construction Plans and Profiles	As required by NCDOT and the applicable utility provider			

A-1-2. *Required information on minor and major subdivisions, sketch plans, plot plans, and site plans.* Submission of all maps and/or plans shall contain the following information before submission to the planning department for review. The information required on sketch plans is delineated in section 10-3.2 (B). An "X" indicates required information. Information required on site plan sheets is indicated by the following codes: "A" to be included on all sheets, "S" to be included on site plan sheet, "U" to be included on utility sheet, and "L" to be included on landscaping sheet. Depending on the scale or complexity of the development, any or all the sheets may be combined. Additional information may be required for approval of the site plan. The zoning administrator may waive items required if it is judged that they are not necessary to complete the review.

Type of Map or Plan

Information		Minor and Major Subdivisions			Plot Plan	Site Plan
		Minor Plat	Development Plan	Final Plat		
Map or plan size:			X			A
	Maps submitted shall not exceed a maximum size of 24" by 36"					
	Maps or plans may be drawn on more than one sheet with appropriate match lines	X	X	X		A
	Standard 18" by 24" sheet for plats to be recorded, minimum 1-1/2" border on the left side and a minimum 1/2" border on all other sides; or as required by the Edgecombe County Register of Deeds	X		X		



	Original drawn on material as required by the Edgecombe County Register of Deeds	X		X		
Plan Endorsement Block			X			A
Title Block containing:						
	Name of Development	X	X	X		A
	Name of map or plan (minor plat, development plan, etc.)	X	X	X		A
	Owner's name with address and daytime phone number	X	X	X	X	A
	Location (including address, township, county and state)	X	X	X	X	A
	Date(s) map(s) prepared or revised	X	X	X	X	A
	Scale of drawing in feet per inch. Drawing shall be at a scale of not less than 1" equal to 100'. If all lots are greater than 3 acres, 1" = 200' scale may be used.	X	X	X		A
	Scale of drawing in feet per inch. Drawing shall be at a scale of not less than 1" equal to 40'. If all lots are greater than 3 acres, only the building site needs to be shown.				X	
	Bar graph	X	X	X		A
	Name, address, and telephone # of preparer of map (licensed surveyor, engineer, or architect)	X	X	X		A
	Developer's name, address, and daytime phone number (if different from owner's)	X	X	X		A
Zoning district(s) within the property and adjacent properties		X	X	X	X	S, L



Existing land use within the property and on adjacent properties	X	X			S, L
Plat book or deed book reference	X	X	X	X	S
Names of adjoining property owners (or subdivisions or developments of record with plat book reference)	X	X	X		S
Tax map, block, and parcel(s) number	X	X	X	X	S
Vicinity map showing location of site relative to surrounding area (typically drawn in upper right hand corner), at a scale of 1" = 2,000'	X	X	X		S
Corporate limits, county lines, and other jurisdiction lines, if any, on the tract	X	X	X	X	A
Registration and seal of land surveyor	X		X		S
North arrow and orientation (north arrow shall not be oriented towards bottom of map)	X	X	X	X	A
Source of property boundaries signed or sealed by registered land surveyor, architect, landscape architect, or engineer		X			S
Boundaries of the tract to be subdivided or developed:					
Distinctly and accurately represented and showing all distances	X	X	X		A
Tied to nearest street intersection (within 300') or USGS (within 2,000')	X	X	X		S
Showing locations of intersecting boundary lines or adjoining properties	X	X	X		S
Location and descriptions of all monuments, markers, and control corners	X		X		S
Existing property lines on tract to be subdivided. If existing property lines are to be changed, label as 'old property lines' and show as dashed lines	X	X	X		S
Dimensions, location and use of all existing and proposed buildings; distances between buildings measured at the closest point; distance from buildings to the closest property lines; building setback lines. A dashed line should be shown on the plat outlining all known structures, ponds or lakes removed or filled.	X	X		X	S
The name and location of any property or building on the National Register of Historic Places or locally designated historic property	X	X	X		S



Railroad lines and right-of-ways	X	X	X	X	A
Water courses, ponds, lakes or streams	X	X	X		A
Marshes, swamp and other wetlands		X			A
Vegetative cover		X			A
Areas to be dedicated or reserved for the public or a local jurisdiction		X	X		A
Areas designated as common area or open space under control of an Owners' Association	X	X	X		S, L
Proposed building locations for zero lot-line developments	X	X		X	S
Location of manufactured dwelling spaces and whether they are designated for single or double wide dwellings					S
Typical diagram of manufactured dwelling space					S
Location of designated recreation areas and facilities		X	X		S
Location of floodway and floodway fringe from Flood Hazard Boundary Maps and cross-section elevations	X	X	X	X	A
Existing and proposed topography of tract and 100' beyond property showing existing contour intervals of no greater than 5' (2' where available) and labeling at least two contours per map and all others at 10' intervals from sea level		X			A
Proposed lot lines and dimensions	X	X	X		A
Square footage of all proposed lots under an acre in size and acreage for all lots over an acre in size	X	X	X		S
Site calculations including:					
Acreage in total tract	X	X	X	X	S
Acreage in public open space		X	X		S, L
Total number of lots proposed	X	X	X		S
Linear feet in roads		X	X		S
Area in newly dedicated right-of-way		X	X		S
Lots sequenced or numbered consecutively	X	X	X		S
Road address as assigned by Edgecombe County for each new lot	X		X		
Edgecombe County Health Department information for subdivisions without public sewer available...		X		X	S



	<p>1) Each lot shall contain an Improvement Permit Number for an on-site subsurface sewage treatment and disposal system and the approved area identified with broken lines and including dimensions of the approved area as measured from property lines or crosshatched and labeled 'NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT,' whichever is appropriate.</p>					
	<p>2) Each lot that has been approved for an on-site subsurface sewage treatment and disposal system shall be shown. Denied lots or lots not evaluated shall be crosshatched and labeled, 'NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT '</p>	X		X		
	<p>The following notes shall be shown:</p>		X	X		



	<p>1) 'There is no right to build upon or otherwise improve any of these lots until a valid written Improvement Permit has been obtained from the Health Department as required by State Law. CONTACT THE EDGECOMBE COUNTY ENVIRONMENTAL HEALTH DIVISION CONCERNING LOT SUITABILITY FOR ON-SITE SUBSURFACE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.'</p>					
	<p>2) 'The location shown for designated septic system areas are approximate. Approval and designed area information for subsurface sanitary sewage systems is reproduced from information supplied by the Edgecombe County Department of Public Health and the Surveyor/Engineer makes no representation or warranty as to the accuracy of such information.'</p>		X			
<p>Show dimensions and location of all parking areas, total provided and minimum required number of parking spaces, driveways, service areas, off-street loading facilities and pedestrian walkways</p>					X	S, L



Within parking areas, clearly indicate each parking space, angle of parking and typical size					X	S
Road data illustrating:						
	Existing and proposed rights-of-way lines within and adjacent to property (shown with a cross-hatch pattern)	X	X	X	X	S
	Existing and proposed rights-of-way within and adjacent to property showing:					
	Total right-of-way width dimension	X	X	X		S
	Right-of-way width dimension from centerline of existing public roads	X	X	X	X	S
	Existing and proposed roads showing:					
	Pavement or curb lines		X			S
	Pavement width dimension (face-to-face)		X			S
	Cul-de-sac pavement radius		X			S
	Existing and proposed road names	X	X	X	X	A
	Road profiles		X			
Location, dimension and type of all easements		X	X	X	X	A
Utility Layout Plan showing connections to existing systems, line sizes, material of lines, location of fire hydrants, blowoffs, valves, manholes, catch basins, force mains, etc. for the following types of utility lines:						
	Sanitary sewer		X		X	U
	Water distribution		X		X	U
	Natural gas, electric, cable TV, etc.		X		X	U
Stormwater Management Plans:						
	Location of public water supply watershed boundaries	X	X	X	X	A



	Area to be disturbed with number of graded acres and percentage noted	X	X		X	U
	Maximum allowable built-upon area for each lot or tract (if applicable)	X	X	X	X	S
	Total impervious surface area, including roads, roofs, patios, parking areas, sidewalks and driveways	X	X		X	U
	Permanent watershed protection controls/ Stormwater Best Management Practices including wet detention ponds, maintenance and access easements and natural filtration and infiltration areas	X	X	X	X	U
	Location and width of required buffer areas	X	X	X	X	U
	Stormwater network, including swales, culverts, inlet and outlet structures with grades, elevations, dimensions and hydraulic calculations	X	X		X	U
	Engineering certification statement, if required by this ordinance	X	X	X	X	U
	Documentation of maintenance of diffuse flow to the buffer					U
	Documentation of Submission of an Erosion Control Plan, if disturbing greater than one acre		X			X
	Documentation of Approval of an Erosion Control Plan, if disturbing greater than one acre			X		



Evidence of Notification to U.S. Army Corps of Engineers of Earth-Disturbing Activities in Wetlands, if applicable		X	X			X
Landscaping Plan shall include:						
	Location of any required planting yard and/or parking lot plantings		X			L
	Location and screening of dumpsters/compactors					L
	Location, species, size, number, spacing, height of trees and shrubs in required planting areas. (If existing vegetation is to be preserved, indicate approximate height and species mix)					L
	Size of planting yard, walls, berms and fences		X			L
	Provisions for watering, soil stabilization, plant protection and maintenance access					L
	Location and description of barriers to protect any vegetation from damage both during and after construction					L
Existing and proposed signs (location, height and area)			X			S
Location, dimensions and details of proposed clubhouses, pools, tennis courts, tot lots or other common area recreation facilities			X			S
Front, side and rear elevations of proposed building(s)						If required by the board of commissioners
Certificates and Endorsements (See Appendix A-2 [of this appendix B] for wording):						
	Certificate of Survey Accuracy signed by surveyor and attested by Notary Public	X		X		
	Certificate of Ownership	X				



	Certificate of Ownership and Dedication			X		
	Certificate of Minor Plat Approval	X				
	Certificate of Development Plan Approval		X			
	Certificate of Final Plat Approval			X		
	Certificate of Approval by Division of Highways of the North Carolina Department of Transportation			X		
	Certificate stating that no approval is required by Division of Highways of the NC Department of Transportation			X		
	Certificate of Utilities Approval			X		
	Certificate of Health Department Approval	X		X		
	Certificate of Soil Evaluation		X			
	Certificate of Purpose for Plat as required by NCGS 47-30	X		X		
	Private Roads Disclosure Statement			X		
	Public Water Supply Watershed Protection Statement	X		X		
	Review Officer Certification	X		X		
	Acknowledgment of Recordation of Nonevaluated/Non buildable Lots (if applicable)	X		X		

A-1-3. *Documents and written information in addition to maps and plans.* In addition to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information shall be provided. The following is a representative list of the types of information or documents that may be requested at the time of plat or plan submission:



Information	Minor and Major Subdivisions				
	Minor Plat	Development Plan	Final Plat	Plot Plan	Site Plan
Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.	X	X			X
Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided.		X			X
Detailed descriptions of recreational facilities to be provided.		X			X
Legal documentation establishing homeowners' associations or other legal entities responsible for control over required common areas and facilities.			X		X
Bonds, letters of credit, or other surety devices.			X		X
A traffic impact study performed and prepared by a qualified transportation or traffic engineer or planner.		X			X
Time schedules for the completion of phases in staged development.		X			X
The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.		X			X



If any road is proposed to intersect with a state maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulations.					X
Proposed deed restrictions or covenants to be imposed upon newly created lots.		X			

(Ord. of 9-13-2004(2))

APPENDIX 2.

CERTIFICATES

A-2-1. Required Certificates and Statements

Type of Certificate or Statement	Minor Plat	Major Plat
Certificate of Ownership	X	
Certificate of Ownership and Dedication		X
Certificate of Minor Plat Approval	X	
Certificate of Development Plan Approval		X
Certificate of Final Plat Approval	X	X
Certificate of Survey and Accuracy	X	X
Division of Highways District Engineer Certificate		X
Private Roads Disclosure Statement		X
Health Department Certificate	X	X
Utilities Certificate		X
Private Right-of-Way Acknowledgement		X
Public Water Supply Watershed Protection Statement	X	X
Certificate of Purpose of Plat	X	X
Certificate of Exception	X	X



Acknowledgment of Recordation of Nonevaluated/Nonbuildable Lot(s)	X	X
Review Officer Certification	X	X
Existing Septic Disposal System Certification	X	X

(Ord. of 6-6-2005, § 1)

A-2-2. *Wording for map certificates and statements.*

(A) *Certificate of Ownership (For Use With Minor Plats Only):*

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is within the subdivision regulation jurisdiction of Edgecombe County, and that I (we) freely adopt this plan of subdivision.

____ Owner	____ Date
____ Owner	____ Date

(B) *Certificate of Ownership and Dedication:*

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of Edgecombe County, that I (We) hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as roads, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Edgecombe County Board of Commissioners in the public interest.

____ Owner	____ Date
____ Owner	____ Date
____ (Notarized)	____ Date

(C) *Certificate of Minor Plat Approval:*

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public roads or any change in existing public roads, that the subdivision shown is in all respects in compliance with the Edgecombe County Unified Development Ordinance, and that therefore this plat has been approved by the Edgecombe County Planning Director, subject to its being recorded in the Edgecombe County Registry within sixty days of the date below.

____ Planning Director	____ Date
------------------------	-----------



(D) *Certificate of Development Plan Approval:*

I hereby certify that the Edgecombe County Planning Board approved on the _____ day of _____, 20_____ the development plan of subdivision as shown on this plan. Development plan approval is valid for a period of 12 months from the above date or as established under the vested rights procedures, if applicable.

_____ Planning Director	_____ Date
-------------------------	------------

(E) *Certificate of Final Major Plat Approval:*

I hereby certify that the subdivision depicted hereon has been granted final approval pursuant to the Edgecombe County Unified Development Ordinance subject to its being recorded in the Office of Register of Deeds within sixty days of the date below. I further certify that streets, utilities and other improvements have been installed in an acceptable manner and according to County specifications in the subdivision depicted hereon or that a performance bond or other sufficient surety in the amount of \$_____ has been posted with Edgecombe County to assure completion of required improvements.

_____ Planning Director	_____ Date
-------------------------	------------

(F) *Certificate of Survey and Accuracy:*

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D., 20_____.

Seal or Stamp of Surveyor

	_____ Surveyor
	_____ Registration Number

(G) *Division of Highways District Engineer Certificate:*

I hereby certify that the streets as depicted hereon are/are not consistent with the requirements of the North Carolina Department of Transportation.

_____ District Engineer	_____ Date
-------------------------	------------



(H) *Private Roads Disclosure Statement.* The following statement and certification shall be placed on all subdivision plats which include private roads:

"The maintenance of roads designated on this plat as "private" shall be the responsibility of property owners within this development having access to such roads. Private roads as shown hereon were not constructed to the minimum standards required to allow their inclusion, for maintenance purposes, on the North Carolina highway system. Neither Edgecombe County nor the North Carolina Department of Transportation will maintain a private road."

No approval is required by the North Carolina Department of Transportation.

____ District Engineer	____ Date
------------------------	-----------

(I) *Certification of The Edgecombe County Health Department:*

Land has been preliminarily determined as generally or provisionally suitable for septic tanks. Final approval of individual lots is subject to the lot size, a soils evaluation, and proper drainage and filling requirements.

____ Edgecombe County Health Director or Authorized Representative	____ Date
--	-----------

(J) *Utilities Certificate:*

I hereby certify that the _____ improvements have been installed in an acceptable manner and in accordance with the requirements of the Edgecombe County Unified Development Ordinance.

____ Signature of Authorized Agent of Utility Provider	____ Date
--	-----------

(K) *Public Water Supply Watershed Protection Statement.* The following statement shall be placed on all subdivision plats which include property located within a watershed protection overlay district:

"All or portions of the property contained in this subdivision are located within a Public Water Supply Watershed. Additional development restrictions regarding such matters as residential density, maximum impervious surface area, and stormwater control measures may apply to this property. Any engineered stormwater controls shown on this plat are to be operated and maintained by the property owners and/or a property owners' association pursuant to the Operation and Maintenance Agreement filed with the Edgecombe County Register of Deeds in Book _____ Page _____."

(L) *Certificate of Purpose of Plat.* The final plat shall contain one of the following statements,



signed and sealed by the plat preparer:

- a. This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- b. This survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
- c. Any one of the following:
 - 1. This survey is of an existing parcel or parcels of land and does not create a new road or change an existing road;
 - 2. This survey is of an existing building or other structure, or natural feature, such as a water course;
 - 3. This survey is a control survey;
- d. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or
- e. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (a) through (d) above.

Signed:	____ Surveyor	SEAL
Date:	____	

(M) *Certificate of Exception.* Plats deemed to be an exception to the provision of this ordinance shall contain the following statement prior to the owner's recording of such plats:

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, which was conveyed to me (us) by deed recorded in Book _____, Page _____, and that said property qualifies as an exception to the provisions of the Edgecombe County Unified Development Ordinance pursuant to subsection _____ of G.S. 153A-335.

____ Owner	____ Date
____ Owner	____ Date
____ Planning Director	____ Date

(N) *Acknowledgment of Recordation of Nonevaluated/Nonbuildable Lot(s).* The following statement may be utilized in those situations in which heir property is subdivided or whenever a property owner wishes to record property that is not to be sold, transferred, conveyed or represented as a buildable property:



I (We) the undersigned property owners do hereby acknowledge that the plat entitled _____ and dated _____ has _____ lot(s) that has (have) not been evaluated by the Edgecombe County Health Department and has (have) been determined to be NONBUILDABLE by the Edgecombe County Planning Department.

I (We) further understand that this plat can be recorded; however, no structure can be permitted without further review and approval of the Edgecombe County Health Department and the Edgecombe County Planning Department.

Signed by:

____ Owner	____ Date
____ Owner	____ Date
____ Owner	____ Date
____ Owner	____ Date
____ Witness	____ Date
____ Edgecombe County Planning Director or Authorized Representative	____ Date

(O) *Review Officer Certification.* The following certificate shall be shown of all subdivision plats:

State of North Carolina

I, _____, Review Officer of Edgecombe County, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

____ Review Officer	____ Date
---------------------	-----------

(P) *Certification of the Edgecombe County Health Department For Lots with Existing Septic Disposal Systems.* The following certificate shall be shown on all subdivision plats that include lots with existing septic systems:

I hereby certify that lot(s) number(s) _____ shown on this plat was (were) inspected for sewage disposal (existing septic system) on _____ and, at the time of the on-site inspection, it appeared that no evidence of malfunction was shown.

____ County Sanitarian or Authorized Representative	____ Date
--	-----------

(Q) *Certification of Soil Scientist Evaluation:*



The Edgecombe County Health Department has reviewed the plat and soils report for _____ subdivision and finds that the soils report has been prepared in accordance with the criteria established by the Edgecombe County Health Department and that the soils report indicates that the lots shown on the plat appear to be able to accommodate sewage disposal systems. Please note that the Edgecombe County Health Department has reviewed the soils report of _____ only and this does not represent or constitute the evaluation or approval for issuance of an improvement permit for any lot in the subdivision. Final site approval for issuance of improvement permits or authorization for wastewater system construction is based on regulations in force at the time of permitting and is dependent on satisfactory completion of individual site evaluations by the Edgecombe County Health Department following application for an improvement permit detailing a specific use and siting.

____ Edgecombe County Health Director or Authorized Representative	____ Date
--	-----------

- (R) *Stormwater Exemption Certificate.* The following statement shall be placed on all subdivision plats which are exempt from the requirements of the Edgecombe County Stormwater Management Program for Nutrient Control.

I / We, hereby certify that the development shown hereupon is not subject to the requirements of the Edgecombe County Stormwater Management Program for Nutrient Control, because:

_____ This is a residential development that will not disturb 1 acre or more.

_____ This is a residential development on a single family lot of record (not part of a larger common plan of development or sale), and does not result in greater than ten percent built-upon area.

_____ This is a multifamily residential development or commercial, industrial or institutional facility that will not disturb 1/2 acre or more.

_____ This is a replacement or expansion of existing structures or improvements that does not result in a net increase in built-upon areas.

_____ This project is vested, because it was approved by the County before September 13, 2004.(Date of approval _____; approved by _____)(plat must be recorded within five years of development's approval)

____ Owner/Developer	____ Date
____ Surveyor/Engineer	____ Date

- (S) *Stormwater Management Certificate.* The following statement shall be placed on all subdivision plats which are subject to the requirements of the Edgecombe County Stormwater Management Program for Nutrient Control.

This development is approved subject to the requirements of the Edgecombe County Stormwater



Management Program for Nutrient Control. Calculations have been submitted to show that this development meets the Nitrogen, Phosphorus, and Peak Flow Requirements.

_____ As per calculations submitted, no Best Management Controls are required.

_____ Stormwater Management Controls are on the property and shown on this plat. Stormwater Management Controls are to be operated and maintained by the property owners and/or a property owners' association pursuant to the Operation and Maintenance Agreement filed with the Edgecombe County Register of Deeds in Book _____ Page _____.

_____ This development has reduced some of the Nitrogen and Phosphorus loading through offsite treatment. A map showing the location and design of these offsite treatment areas is recorded in the Edgecombe County Register of Deeds in Plat Cabinet _____ Slide _____. An Operation and Maintenance Agreement for these areas is filed with the Edgecombe County Register of Deeds in Book _____ Page _____.

_____ No Riparian Buffers are on this property.

_____ Riparian Buffers are shown on this plat, and shall be protected and maintained as specified in 15A NCAC 2B .0259.

____ Owner/Developer	____ Date
____ Surveyor/Engineer	____ Date

(T) *Private Right-of-Way Acknowledgement.*

I (We) certify that I am (we are) the owner(s) of property shown on this map, over which a Private Right-of-Way accesses development off the road. I (We) certify that I (we) have agreed to allow this property to be used as a Private Right-of-Way. I (We) understand that this Right-of-Way will remain on this property, perpetually, through any and all changes in ownership of either property.

____ Owner	____ Date
____ Owner	____ Date
____ Owner	____ Date
____ Owner	____ Date
____ (Notarized)	____ Date

(Ord. of 1-3-2005, § 1; Ord. of 6-6-2005, § 2)

APPENDIX 3.

REQUIRED INFORMATION FOR OBTAINING A ZONING, SIGN, SPECIAL USE AND CONDITIONAL USE PERMIT

Information	Zoning	Sign	Special Use Conditional Use
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Plot Plan or Site Plan	X	X	X
Address of Job	X	X	X
Name, Address and Telephone of...			
Property Owner	X	X	X
Building Contractor	X	X	X
Name of Subdivision or Development	X		X
Plat Book and Page Number	X		X
Tax Map Number	X		X
Township	X	X	X
Type of Sewage Disposal (i.e. public sewer, septic tank, etc.)	X		X
Type of Water Supply (i.e. public water, private well, etc.)	X		X
Proposed Use (i.e. single-family, church, garage, etc.)	X		X
Application Type (new construction, addition, alternation or installation)	X	X	X
Documentation of Submission of an Erosion Control Plan, if disturbing greater than one acre	X		X
Stormwater Management Plan, if located within a Watershed Protection Overlay District	X		X
Evidence of Notification to U.S. Army Corps of Engineers of Earth-disturbing Activities in Wetlands, if applicable	X		X
Number of Stories of Proposed Buildings	X		X
Electrical Power Company	X	X	X
Type of Sign		X	
Dimensions of Sign		X	
Sign Illumination (electrical contractor)		X	
Master Sign Plan, if required		X	

Appendix 4.

Procedural Flow Charts

Appendix A-4-1. Administrative Appeals, Variances (except watershed protection variances) and Interpretations

Appendix A-4-2. Conditional Use Permits



Appendix A-4-3. Major Subdivisions

- 4-3.1. Major Subdivision, Sketch Plan
- 4-3.2. Major Subdivision, Development Plan
- 4-3.3. Major Subdivision, Final Plat

Appendix A-4-4. Minor Subdivisions

Appendix A-4-5. Rezoning and Text Amendments

Appendix A-4-6. Special Use Permit

Appendix A-4-7. Variances From Watershed District Overlay Requirements

Appendix A-4-8. Zoning and Sign Permits

A-4-1. Administrative Appeals, Variances (except watershed protection variances) and Interpretations

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Articles VII, Appeals, Variances, Interpretations

**A-4-2.
Conditional Use Permits**

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 4-7, Special Use Permits and Conditional Use Permits

Section 4-3, Permit Applications and Plans

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**A-4-3.1.
Major Subdivision, Sketch Plan**

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 10-3.2, Submission of the Sketch Plan

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Major Subdivisions, Development Plan

GRAPHIC UNAVAILABLE: [Click here](#)

References:

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Section 10-3.3, Preliminary Plat Review and Approval

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Major Subdivisions, Final Plat

GRAPHIC UNAVAILABLE: [Click here](#)

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Minor Subdivisions

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 10-2, Minor Subdivision Procedures

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A-4-5.

Rezoning and Text Amendments

GRAPHIC UNAVAILABLE: [Click here](#)

References:

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A-4-6.

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GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 4-7, Special Use Permits and Conditional Use Permits

Section 4-3, Permit Applications and Plans

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A-4-7.

Variations From Watershed District Overlay Requirements

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 7-2.3, Variations for Watershed District Overlay Requirements

Section 12-1.9, Variations

A-4-8.

Zoning and Sign Permits

GRAPHIC UNAVAILABLE: [Click here](#)

References:

Section 4-6, Zoning and Sign Permits

Section 4-3, Permit Applications and Plans

Section 4-2, Permit Exemptions

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CODE COMPARATIVE TABLE ORDINANCES

This is a chronological listing of the ordinances of the county used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

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11- 3-1980(Ord.)	1, 2	10-81, 10-82
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9- 8-1987(Ord.)	I--IV	8-111--8-114
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6- 6-2005(Ord.)	1	App. B, App. 2, § A-2-1
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5- 1-2006(1)(Ord.)	1	App. B, § 12-2.14(3)(1)
5- 1-2006(2)(Ord.)	1 Added	16-61--16-63
6- 5-2006(1)(Ord.)	1 Added	App. B, § 2-4.221, 2-4.222
6- 5-2006(2)(Ord.)	1	App. B, § 9-3-1
6- 5-2006(3)(Ord.)	1	App. B, § 10-7.3(c)
6- 5-2006(4)(Ord.)	1 Rpld	App. B, § 11-4.29(D)
6- 5-2006(5)(Ord.)	1 Added	App. B, § 11-4.94--11-4.96
9- 5-2006(Ord.)	1	20-38(a)(4),(5)
8- 6-2007(Ord.)	1 Added	App. B, § 11-4.83(R)



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