

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, NOVEMBER 23, 2020 – 7:00 P.M.
WEDDINGTON TOWN HALL
1924 WEDDINGTON ROAD
WEDDINGTON, NC 28104
AGENDA**

1. Open the Meeting
2. Determination of Quorum
3. Approval of Minutes – October 26, 2020 Regular Planning Board Meeting Minutes
4. Public Hearing for the Consideration of a Temporary Use Permit Application by Christ South to host a Live Production of the Christmas Carol at 323 Reid Dairy Road on December 12, 13, 19, and 20.
5. Old Business
6. New Business
 - A. Discussion and Consideration of Minor Subdivision for the Mary M. Morris, Heirs Property
 - B. Discussion and Recommendation of Preliminary Plat for Cardinal Row (formerly Woodford Chase)
 - C. Discussion and Recommendation for a text amendment to Section 46-79 Connection to Public Water Lines
 - D. Review of Unified Development Ordinance Sections 8 and 9
7. Update from Town Planner and Report from the November Town Council Meeting
8. Board member comments
9. Adjournment

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, OCTOBER 26, 2020 – 7:00 P.M.
WEDDINGTON TOWN HALL*
WEDDINGTON, NC 28104
MINUTES
PAGE 1 OF 3**

**PLEASE NOTE: DUE TO THE CURRENT STATES OF EMERGENCY RELATED TO COVID-19, THE GOVERNOR'S EXECUTIVE ORDER NO. 121 PLACING LIMITS ON CERTAIN GATHERINGS AND REQUIRING CERTAIN SOCIAL DISTANCING METHODS, AND THE IMPORTANCE OF ENSURING THE SAFETY OF TOWN RESIDENTS, STAFF, AND THE PLANNING BOARD, THE MEETING WILL BE CONDUCTED VIRTUALLY AND HAVE LIMITED PHYSICAL ATTENDANCE. THE MEETING WILL BE LIVE STREAMED ON SOCIAL MEDIA.*

1. Open the Meeting

Chairman Prillaman called the meeting to order at 7:00 p.m.

2. Determination of Quorum

Quorum was determined with Chairman Brad Prillaman, Vice Chairman Walt Hogan, Board members Tami Hechtel, and Ed Goscicki, in person, Board members Jen Conway and Steve Godfrey on Zoom. Board member Jim Vivian arrived at 7:35 via Zoom.

Staff: Town Administrator/Planner Lisa Thompson, Town Clerk Karen Dewey, and Town Attorney Kevin Bringewatt via Zoom

3. Approval of Minutes – September 28, 2020 Planning Board Regular Meeting Minutes

- Motion:** Vice Chairman Hogan made a motion to approve the September 28, 2020 Planning Board Regular Meeting minutes.
- Second:** Board member Goscicki
- Vote:** The motion passed with a unanimous vote.

4. Old Business

A. Discussion of Tree Save and Tree Replenish Requirements Text Amendment

Ms. Thompson presented the same text that was reviewed at the last planning board meeting. She held a discussion with the Union County Arborist and reviewed changes per that discussion. She added that any new major or minor residential development will have the tree ordinance apply. There will not be tree surveys or tree mitigation plans to keep this simple. The planning board agreed to include this in the UDO and follow the approval timeline for that.

5. New Business

A. Discussion and Consideration of Minor Subdivision - 218 Weddington Road

Staff received an application from Syl Stewart Plyler and Terry F. Plyler for a minor subdivision approval for property located at 218 Weddington Road (parcel 061500072C). It is a total of 7 acres and is zoned RCD residential conservation district. The resulting lots are approximately 5 acres and 1.505 acres (Tracts A and B) and an open space lot (Tract C) of .163 acres. The two buildable lots meet the minimum size requirement, the minimum front, side and rear yard setbacks and are at least

120' wide at the established front setback. Tract A meets the requirements for panhandle lots. The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval.

Board member Goscicki asked if the pan handle was a part of tract A. Ms. Thompson responded that the applicants decided to connect the panhandle rather than opt for an easement. The plans will be updated to reflect that.

Motion: Vice Chair Hogan made a motion to approve the minor subdivision at 218 Weddington Road.

Second: Board member Hechtel

Vote: The motion passed with a unanimous vote.

B. Review of Unified Development Ordinance Section 7

Mr. Bringewatt presented the UDO Section 7-Zoning Regulation.

Section D-701 covers the purposes of zoning regulations. Deleting this language from the town ordinance and relying solely on identical language from the state statute is being considered. The purpose statement provides background and the language is already in the Weddington Land Use Plan.

Board member Goscicki prefers the detail given as it will set the general framework and intent of the section, so if there is future disagreement on how they are enforced, this language can be used as a resource.

Board member Hechtel asked if it is realistic to believe applicants will actually read the Land Use Plan. The intent may be lost. Ms. Thompson replied that Land Use Plan consistency statements are required, and she agrees this language is repetitive.

Mr. Bringewatt responded that purpose statements should be light, and the town can fall back on state statute language.

Chairman Prillaman agreed that the language should be left out, keep it simple. Developers use the Land Use Plan to base their plans on.

Vice Chairman Hogan suggested referencing the Land Use Plan to direct people to read it.

The Planning Board agrees to reference the Land Use Plan and to omit the repetitive language of the state statute.

Section D-702: Mr. Bringewatt stated that this language is straight from the state statute. He notes the limitations the state puts on the town. The town cannot regulate architectural standards.

Board member Goscicki pointed out the double negative in the first sentence of the second paragraph.

Section D-703 lists the zoning districts. Currently in the town there is conventional zoning, two conditional zoning districts, B-1 CZ and B-2 CZ. This section will additionally allow property owners to create conditional zoning on a site-specific basis with specific rules found in the table of permitted uses. Some uses are only allowed through the conditional zoning process. All regulations and conditions may be incorporated since it is a legislative process. The council has the authority to modify.

Board member Hechtel expressed concern that this would leave a door open for development. Mr. Bringewatt explained that this isn't allowing any unregulated development. Any applicant can ask for a change and anything can be considered, but not automatically approved.

Board member Goscicki pointed out the chart for yard requirements has no minimum lot width or size for CZ. Ms. Thompson noted that the chart will be fixed.

Section D-704 is regarding incentives and will be reviewed another time.

Section D-705-Quasi-judicial zoning decisions. This is from the state statutes.

Section D-706-Zoning conflicts with other development standards. This is not significant for discussion

The Planning Board agreed to make the changes to the purpose statements, referencing the town's Land Use Plan and deleting language that is already in the state statute, and to add corrections to the tables.

6. Update from Town Planner and Report from the October Town Council Meeting

No report.

7. Board member comments

Vice Chairman Hogan: Thank you everybody.

8. Adjournment

Motion: Board member Goscicki made a motion to adjourn the October 26, 2020 Planning Board Regular Meeting at 7:58 p.m.

Second: Vice Chairman Hogan

Vote: The motion passed with a unanimous vote.

Adopted: _____

Brad Prillaman, Chairman

Karen Dewey, Town Clerk

**TOWN OF
W E D D I N G T O N**

MEMORANDUM

TO: Chairman and Planning Board

FROM: Lisa Thompson, Town Administrator/Planner

DATE: November 23, 2020

SUBJECT: Temporary Use Permit Application Christ South – Christmas Performance

Mr. Jeff Taylor submitted an application for a Temporary Use Permit for a Christmas performance. The proposed event will be located at Christ South located at 323 Reid Dairy Rd. on December 12, 13, 19, and 20.

Application Information

Date of Application: November 9, 2020
Property Owner's Name: Christ Evangelical Lutheran Church of NC
Parcel ID#: 06177012
Property Location: 323 Reid Dairy Rd
Existing Zoning: CZ- Christ South
Existing Use: Church
Property Size: 13.24 Acres

The event will be from 12-7 p.m., including setup and tear down. The performances will be no longer than an hour and a half. There are no proposed temporary structures. The attendance is limited to 50 persons per performance. The existing buildings will be used for restrooms. The site plan is attached.

In accordance with the provisions of *Article I, Section 58-13* of the *Weddington Zoning Ordinance*, the property owners and the owners of the parcels of land within 200 feet of the property involved in the Temporary Use Application have been sent notification of the public hearing.

Before issuing any temporary use permit, the planning board shall make the following determinations: (i) That the proposed temporary use will not materially endanger the public health, welfare and safety; (ii) That the proposed temporary use will not have a substantial negative effect on adjoining properties; (iii) That the proposed temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit; and (iv) The proposed temporary use is held no more than four times per year at any particular location.

Staff reviewed the application and submitted documents and finds the Temporary Use Permit Application to be in compliance with the Weddington Zoning Ordinance and therefore recommends approval.



Town of Weddington

Temporary Use Permit Application

Applicant Information

Permit Number: _____

Name: JEFF TAYLOR
Mailing Address: 2015 RETANA DR.
City: CHARLOTTE State: NC

Phone Number: 704-534-0534
Email: JTAYLOR@CHARISTELLA.ORG
Zip: 28270

Property Owner Information (if different from applicant)

Name: CHRIST SOUTH
Address: 305 REID PARK RD
City: NAXHAW State: NC Zip: 28173

Lot Number: _____
Subdivision: _____
Parcel Number: _____

Describe the nature of the use requested:

WE ARE PARTNERING WITH THEATER CHARLOTTE TO PROVIDE SPACE FOR THEM TO PERFORM "ALHAMBRA CAROLINA"

On a separate page provide the following -

Narrative including:

- Nature of use
- Duration of use
- Hours of operation
- Lighting
- Temporary structures
- Signage
- Projected attendance
- Waste/trash disposal

Other Submittal Requirements (if applicable):

- A site plan showing parking and the layout of event area
- Proof of adequate insurance to cover the event
- Certification of review from Union County Sheriff's Department or NC Highway Patrol regarding traffic and crowd control
- Union County mass gathering permit required?
- Certification of review from Union County Health Department
- Department of Revenue weekend Temp. Sales and Use ID# for retail sales

By signing this permit, the applicant agrees with the findings of fact below:

The proposed temporary use will not materially endanger the public, health, welfare and safety; and
The proposed temporary use will not have a substantial negative effect on adjoining properties; and
The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and
The proposed temporary use is held no more than four times per year at any particular location.



Signature of Applicant

11/9/20
Date

Signature of Property Owner (if different)

Date

Permit Approved? Yes _____ No _____ If Yes, Permit is Valid from: _____ to _____

Zoning Administrator

Date

2020-11-23 Christ South TUP Narrative

We want to host Theater Charlotte's live production of A Christmas Carol on our land at 305 Reid Dairy Rd.

Dates: Dec. 12, 13, 19 and 20.

Time would be 12 to 7 p.m. for set up, performance and tear down every day listed above

They will be bringing their equipment in terms of sound and lighting

There are no temporary structures

We will look at putting up a couple of signs the week before if allowed

As for projected attendance, we are thinking somewhere around 50 - 100 persons per performance

We will use our buildings for restrooms and take care of trash.

Search Google Maps
See travel times, traffic and nearby places

Agenda Item 4.4.



**TOWN OF
WEDDINGTON**

MEMORANDUM

TO: Chairman and Planning Board

FROM: Lisa Thompson, Town Administrator/Planner

DATE: November 23, 2020

SUBJECT: Mary M. Morris, Heirs Minor Subdivision

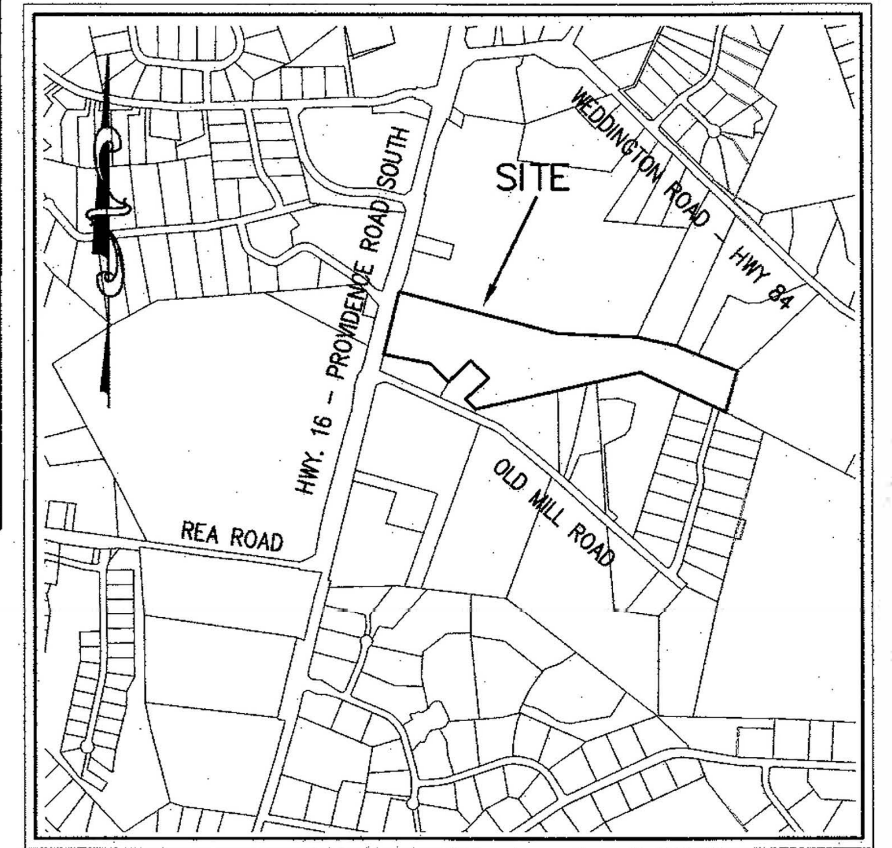
The applicant, Daryll Matthews is seeking minor subdivision approval for property located at 201 S. Providence Road (parcel 06150077D). It is a total of 24.01 acres and is zoned RCD Residential Conservation District.

The resultant lot is 5 acres, leaving a residual property of 19.10 acres. The lot meets the minimum lot size requirement, the minimum front, side, and rear yard setbacks and is at least 120' wide at the established front setback.

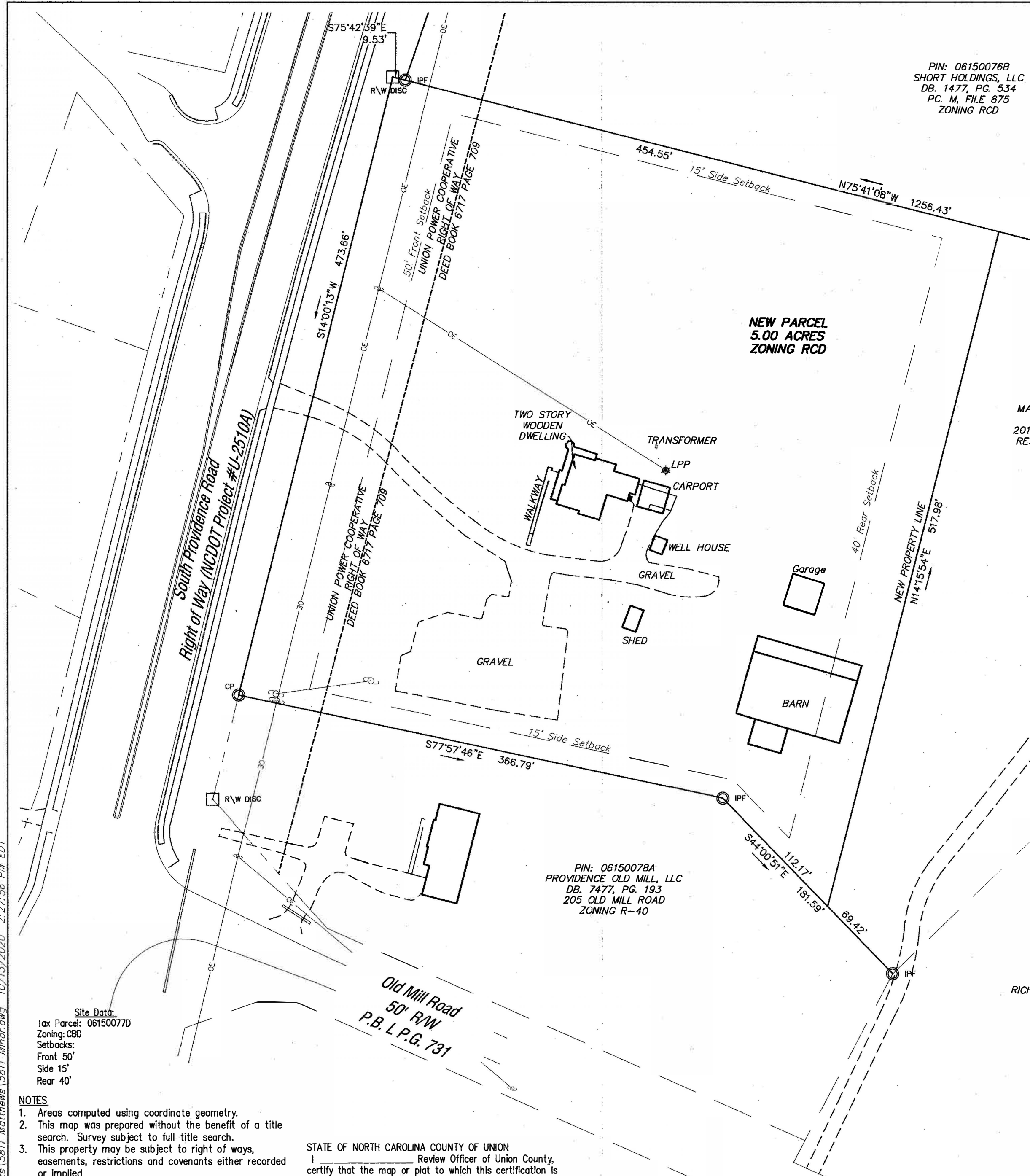
The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval.

Legend

Telephone Line ..	T
Power Line.....	ohe
Power pole.....	PP
Sewer Clean out	CO
Curb Inlet	CBI
Guy Wire	
Light pole.....	LP
Fire hydrant.....	FH
Water meter.....	WM
Electric meter.....	EM
Water valve.....	WV
Flood Zone.....	[Symbol]
Public Drainage Esmt.	PDE
Iron Pin Found	IPF
Iron Pin Set	IPS



Vicinity Map (NTS)



Certificate of Ownership and Dedication
I hereby certify that I am the owner of the property shown and described herein, which is located in the subdivision jurisdiction of the Town of Weddington and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines noted.

Date _____ Owner _____

I, _____ a notary public of Union County, North Carolina certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal this _____ day of _____, 20____.
My commission expires _____

Notary Public

Flood Certification
I have examined the Flood Insurance Rate Map for Union County North Carolina, Community Panel Number 3710447500A, dated 10/16/2008, and hereby certify that this property is located in a special flood hazard area as determined by the Federal Emergency Management Agency.

Certificate of Survey and Accuracy
State of North Carolina, Union County
I, F. Donald Lawrence, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed recorded in Book As, Page Shown); that the boundaries not surveyed are clearly indicated as dashed lines drawn from adjoining owners' deeds or shown; that the ratio of precision as calculated is 1:10,000 or better; that this plat was prepared in accordance with G.S. 42-30 as amended; This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.
Witness my original signature, registration number and seal this 17th day of November 2020

F. Donald Lawrence, NCPES #11729

Site Data:
Tax Parcel: 06150077D
Zoning: CBD
Setbacks:
Front 50'
Side 15'
Rear 40'

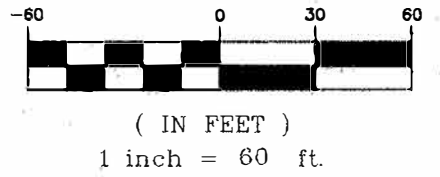
- NOTES**
- Areas computed using coordinate geometry.
 - This map was prepared without the benefit of a title search. Survey subject to full title search.
 - This property may be subject to right of ways, easements, restrictions and covenants either recorded or implied.
 - All distances shown are horizontal ground distances.
 - No recoverable NCGS Horizontal Control Monument located within 2000 feet of subject property.
 - Rebar set at all corners unless otherwise noted.
 - Broken lines indicate property lines not surveyed.
 - All adjoining property owner information is taken from current deeds and tax records and are considered as "Now or Formerly".
 - Lawrence Associates makes no guarantees to the compaction or to the nonexistence of spoils areas.
 - Other underground utilities may exist but their locations are not known.
 - The residual 19.10 Acres has access to Abellia Drive a 50' Public R/W

STATE OF NORTH CAROLINA COUNTY OF UNION
I, _____ Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Date _____ Review Officer _____

Certificate of Approval for Recording
I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision regulations of the Town of Weddington, North Carolina and that this plat has been approved by the subdivision administrator for the recording in the office of the Register of Deeds of Union County.

Date _____ Chairman of the Planning Board
Town of Weddington, North Carolina



LAWRENCE ASSOCIATES
106 W. Jefferson St.
Monroe, North Carolina 28112
P 704-289-1013
F 704-283-9035
www.lawrencesurveying.com
Firm License Number: C-2856

Minor Subdivision - Final Plat
Property of Mary M. Morris, Heirs
Town of Weddington
Sandy Ridge Township, Union County, NC

Orig. scale: 1" = 60' Date: October 12, 2020 Drawn By: WML

REVISIONS

Job No. 5811 Drawing file: 5811 Minor.dwg Drawing no. 20/259

I:\LAWRENCE-2019\Lawrence Projects\5811\Matthews\5811_Minor.dwg 10/13/2020 2:27:56 PM EDT

TOWN OF W E D D I N G T O N

MEMORANDUM

TO: Mayor and Town Council

FROM: Lisa Thompson, Town Administrator/Planner

DATE: November 23, 2020

SUBJECT: Cardinal Row (formerly Woodford Chase) R-CD Conventional Subdivision - Preliminary Plat

Mr. Scott Swierski submitted a preliminary plat and construction plans for a 9-lot subdivision on 13.32 acres located near the southwest corner of Highway 84 and Lester Davis Road.

Project History:

A preliminary plat for a 9-lot subdivision was approved in June 2018. A preliminary plat is void two years after the approval date if a final plat is not submitted. The owner at the time had a buyer that wanted to purchase 3 larger lots so a final plat for 3 lots was approved by Planning Board. The new applicant would like to go back to the original approved 9-lot development.

During the preliminary plat review, the Planning Board at that time raised a few concerns and recommended denial. Concerns included the cul-de-sac length, needing a bulb end to the cul-de-sac for a turn-around, availability of other roadway alternatives, minimal front yards after widening Highway 84, and no buffering.

The applicant at that time improved the plans to address the Planning Boards concerns prior to Town Council. They provided a bulb turn-around. They established a new front yard setback beyond the 50' requirement to create a viewshed buffer and added a 30' non-disturbed area. They also included a right-turn lane as requested by the Town Council.

Since then, the town amended the cul-de-sac length requirement to 16 home sites or 1200' whichever is less.

The following conditions were added to the approval from 2018:

- The driveway pipe for lot 8 is a built to NCDOT specifications,
- The maintenance for the pipe shall be included in the HOA documents,
- Maintenance of the shared driveway is included in the HOA documents,
- All maintenance documents and CCR's are reviewed by the town attorney, and
- A fire hydrant shall be added near lot 8 if necessary.

Recommendation:

The preliminary plat has not changed from the original approval therefore staff recommends approval of the Cardinal Row major subdivision with the same conditions bulleted above.

CERTIFICATION OF OWNERSHIP AND DEDICATION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREON, WHICH PROPERTY IS LOCATED WITHIN THE SUBDIVISION REGULATION JURISDICTION OF THE TOWN OF WEDDINGTON, THAT I HEREBY FREELY ADOPT THIS PLAN OF SUBDIVISION AND HEREBY ESTABLISH ALL LOTS, WITH MINIMUM BUILDING SETBACK LINES, AND DEDICATE TO PUBLIC USE ALL AREAS SHOWN ON THIS PLAN AS STREETS, ALLEYS, WALKS, PARKS, OPEN SPACE, AND EASEMENTS, EXCEPT THOSE SPECIFICALLY INDICATED AS PRIVATE, AND THAT I WILL MAINTAIN ALL SUCH AREAS UNTIL THE OFFER OF DEDICATION IS ACCEPTED BY THE APPROPRIATE PUBLIC AUTHORITY. ALL PROPERTY SHOWN ON THIS PLAN 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 BOARD OF COMMISSIONERS IN THE PUBLIC INTEREST.

DATE _____ OWNER(S) _____

NOTARY PUBLIC:

STATE OF NORTH CAROLINA
COUNTY OF UNION

I, _____ A NOTARY PUBLIC OF UNION COUNTY, NORTH CAROLINA, CERTIFY THAT _____ PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____, 20____
MY COMMISSION EXPIRES _____

NOTARY PUBLIC _____

REVIEW OFFICER:

STATE OF NORTH CAROLINA
COUNTY OF UNION

I, _____ REVIEW OFFICER OF UNION COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE _____ REVIEW OFFICER _____

PLANNING CERTIFICATION:

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE TOWN OF WEDDINGTON, NORTH CAROLINA AND THAT THIS PLAT HAS BEEN APPROVED BY THE PLANNING BOARD FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF UNION COUNTY,

DATE _____ CHAIRMAN OF PLANNING BOARD
TOWN OF WEDDINGTON, NORTH CAROLINA

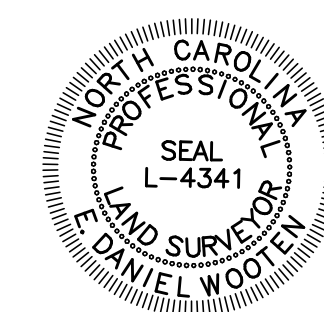
GLOBAL POSITIONING SYSTEM SURVEY AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GPS (GNSS) SURVEY: CLASS A SURVEY; POSITIONAL ACCURACY 0.03'; REAL-TIME (RTK) NETWORK; NAD 83 (2011), NAVD 88; NC VIRTUAL RTN; GEIOD MODEL 12; COMBINED GRID FACTOR 0.9998633077; UNITS-US FEET

SURVEYOR CERTIFICATION

I, E. DANIEL WOOTEN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK AND PAGE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES DRAWN FROM ADJOINING OWNERS DEEDS AS SHOWN; THAT THE RATIO OF PRECISION AS CALCULATED DOES NOT EXCEED 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

THIS 4th DAY OF NOVEMBER, 2020.

E. DANIEL WOOTEN, NCPLS L-4341



PRELIMINARY

NOT FOR RECORDATION, CONVEYANCE OR SALES

WEDDINGTON ROAD

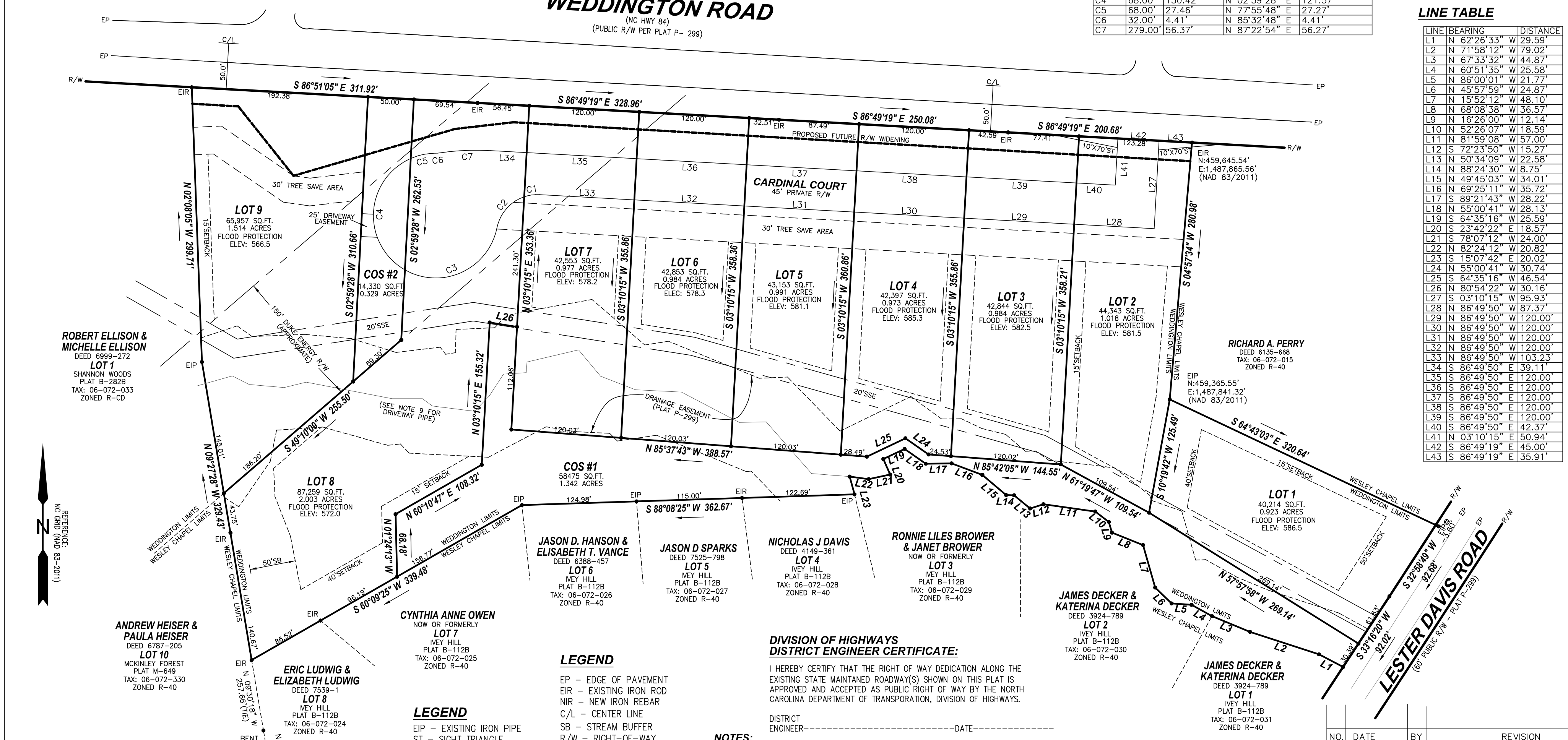
(NC HWY 84)
(PUBLIC R/W PER PLAT P- 299)

CURVE TABLE

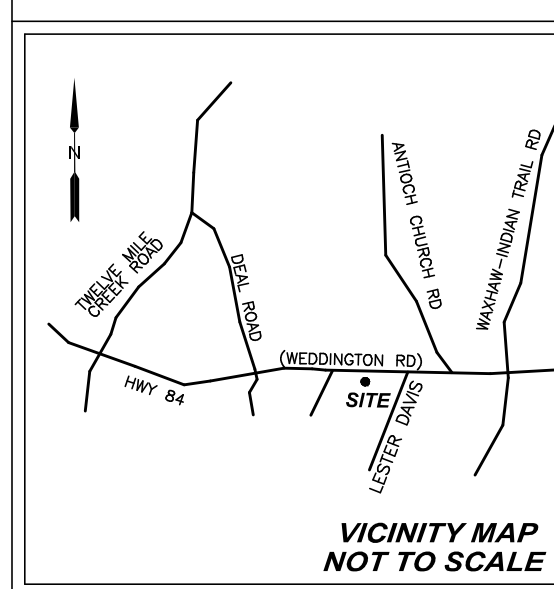
CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	45.00'	17.18'	S 82°13'55" W	17.08'
C2	45.00'	47.16'	S 41°16'17" W	45.03'
C3	68.00'	128.62'	S 65°26'03" W	110.29'
C4	68.00'	150.42'	N 02°59'28" E	121.57'
C5	68.00'	27.46'	N 77°55'48" E	27.27'
C6	32.00'	4.41'	N 85°32'48" E	4.41'
C7	279.00'	56.37'	N 87°22'54" E	56.27'

LINE TABLE

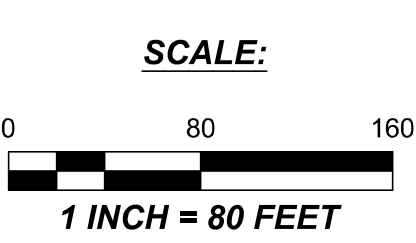
LINE	BEARING	DISTANCE
L1	N 62°26'33" W	29.59'
L2	N 71°58'12" W	79.02'
L3	N 67°33'32" W	44.87'
L4	N 60°51'35" W	25.58'
L5	N 86°00'01" W	21.77'
L6	N 45°57'59" W	24.87'
L7	N 15°52'12" W	48.10'
L8	N 68°08'38" W	36.57'
L9	N 16°26'00" W	12.14'
L10	N 52°26'07" W	18.59'
L11	N 81°59'08" W	57.00'
L12	S 72°23'50" W	15.27'
L13	N 50°34'09" W	22.58'
L14	N 88°24'30" W	8.75'
L15	N 49°45'03" W	34.01'
L16	N 69°25'11" W	35.72'
L17	S 89°21'43" W	28.22'
L18	N 55°00'41" W	28.13'
L19	S 64°35'16" W	25.59'
L20	S 23°42'22" E	18.57'
L21	S 78°07'12" W	24.00'
L22	N 82°24'12" W	20.82'
L23	S 15°07'42" E	20.02'
L24	N 55°00'41" W	30.74'
L25	S 64°35'16" W	46.54'
L26	N 80°54'22" W	30.16'
L27	S 03°10'15" W	95.93'
L28	N 86°49'50" W	87.37'
L29	N 86°49'50" W	120.00'
L30	N 86°49'50" W	120.00'
L31	N 86°49'50" W	120.00'
L32	N 86°49'50" W	120.00'
L33	N 86°49'50" W	103.23'
L34	S 86°49'50" E	39.11'
L35	S 86°49'50" E	120.00'
L36	S 86°49'50" E	120.00'
L37	S 86°49'50" E	120.00'
L38	S 86°49'50" E	120.00'
L39	S 86°49'50" E	120.00'
L40	S 86°49'50" E	42.37'
L41	N 03°10'15" E	50.94'
L42	S 86°49'19" E	45.00'
L43	S 86°49'19" E	35.91'



REFERENCE:
NC GRID (NAD 83-2011)



VICINITY MAP
NOT TO SCALE



SCALE:
1 INCH = 80 FEET

LEGEND

- EP - EDGE OF PAVEMENT
- EIR - EXISTING IRON ROD
- NIR - NEW IRON REBAR
- C/L - CENTER LINE
- SB - STREAM BUFFER
- R/W - RIGHT-OF-WAY
- N - NORTHING
- E - EASTING

FLOOD CERTIFICATION

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY SHOWN HEREON IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION.

SETBACK PER ZONING:

- ZONING - RCD
- MINIMUM FRONT SETBACK: 50 FEET
- MINIMUM SIDE YARD: 15 FEET
- MINIMUM REAR YARD: 40 FEET
- MINIMUM LOT SIZE: 40,000 SQ.FT.
- MINIMUM WIDTH: 120 FEET

DIVISION OF HIGHWAYS DISTRICT ENGINEER CERTIFICATE:

I HEREBY CERTIFY THAT THE RIGHT OF WAY DEDICATION ALONG THE EXISTING STATE MAINTAINED ROADWAY(S) SHOWN ON THIS PLAT IS APPROVED AND ACCEPTED AS PUBLIC RIGHT OF WAY BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS.

DISTRICT ENGINEER _____ DATE _____

NOTES:

- THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE COMMITMENT REPORT.
- E. DANIEL WOOTEN, NC-PLS L-4341, DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THE SUBJECT PROPERTY ARE SHOWN HERE ON.
- THE PURPOSE OF THIS SURVEY IS TO SUBDIVIDE INTO 9 LOTS.
- THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- IRON REBAR SET AT LOT CORNERS UNLESS OTHERWISE NOTED.
- FLOOD PROTECTION ELEVATIONS TAKEN FROM PLANS PREPARED BY EAGLE ENGINEERING DATED 11/6/2019 LAST REVISED 9/10/18 FOR WOODFORD CHASE.
- LESTER DAVIS ROAD APPEARS AS A "MINOR THOROUGHFARE" ON THE MECKLENBURG-UNION THOROUGHFARE PLAN OF 2004, LAST REVISED MARCH 21, 2012, AND MAY BE SUBJECT TO FUTURE 70' RIGHT-OF-WAY (35' EACH SIDE OF CENTERLINE.)
- PROPERTY PREVIOUSLY RECORDED IN PLAT P-299. THIS PLAT SUPERCEDES PREVIOUSLY RECORDED LOTS FOR THIS PROPERTY.
- DRIVEWAY PIPE FOR LOT 8 IS TO BE BUILT TO NCDOT STANDARDS AND SHALL BE PRIVATELY MAINTAINED BY OWNER OF LOT 8.

TOTAL AREA:
524,377 SQ.FT.
12.038 ACRES

WOOTEN SURVEYING

& ASSOCIATES, PLLC
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MAJOR SUBDIVISION PLAT OF

CARDINAL ROW

PREPARED FOR:
EDGE 5 REALTY INC

WEDDINGTON ROAD AND LESTER DAVIS ROAD
TOWN OF WEDDINGTON
UNION COUNTY, NORTH CAROLINA

DEED 362-76, PLAT P-299
Tax Number: 06-072-004, 004A, 004B

FIELD/DRAWN	ACAD	SCALE	DATE
DW/DW	5210WEDDINGTONRD	1"=80'	NOVEMBER 4, 2020

NO.	DATE	BY	REVISION

TOWN OF
W E D D I N G T O N

MEMORANDUM

TO: Chairman and Planning Board

FROM: Lisa Thompson, Town Administrator/Planner

DATE: November 23, 2020

SUBJECT: Text Amendment to Section 46-79 – connection to public water lines

The fire department is having issues with water accessibility when a fire hydrant is only available on the opposite side of a street of a development causing them to have to shut the entire road down. This text amendment requires a hydrant to be placed on the same side of a development and within 500' of a principal structure.

Sec. 46-79. - Connection to public water lines [and fire hydrants](#).

[\(a\) \(a\)](#) If county or municipal water lines are located within one-half mile of a subdivision of ten to 39 lots, or one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service and fire protection for the subdivision. Extensions to the county water system shall be made in conformance with the policies and procedures set forth in the current Union County Water and Sewer Extension Policy as approved by the board of county commissioners and Town of Weddington.

[\(b\) Where water is accessible per \(a\) above, all major and minor developments are required to place a fire hydrant on the same side of the road as the development and a hydrant shall be no less than 500' from a principal structure.](#)

[\(c\)](#) There may be times when the county cannot issue new water permits due to lack of available capacity. If a developer is denied permits for this reason, the town may allow the use of individual domestic wells to serve a proposed development provided that the developer still installs water lines to county specifications as initially approved for fire flow only. The developer shall be responsible for proving to the town that capacity is not available. A determination of what capacity is available and whether to allow the use of individual domestic wells shall lie within the sole discretion of the town.

[\(d\)](#) The proposed water lines must still meet all the requirements of the Union County Water and Sewer Extension Policy, including providing fire flow protection to the development and taps and meter boxes for each developable lot. If the county and town approve these plans then the use of wells may be approved as an interim measure until such time as water capacity becomes available. The developer will be required to provide written proof that Union County will charge the lines for fire hydrant use.

(e) As a condition of approval of the proposed development, the developer or property owner shall require these lots with domestic use wells connect to the county system at such time as the county indicates water capacity is available. Individual wells may be converted to irrigation use at the property owners expense provided such conversion is in conformance with the Union County Building Code and Union County Water and Sewer Specifications. The developer and/or property owner shall be responsible for any fees and charges from the county as a condition of connection to the county water system.

(f) The use of community wells for domestic needs is discouraged and will only be allowed if the water system is built to Union County Water and Sewer Specifications. The system must be capable of meeting the water needs of the community including domestic, irrigation and fire flow requirements and an agreement exists with the county for: 1) the conditions under which the system becomes part of the county system; and 2) an arrangement is made with the county to tap into the county system for working fire hydrants according to the county specifications.

Article 8.
Subdivision Regulation.

D-801. Authority. N.C.G.S. 160D-801 authorizes a local government to regulate the subdivision of land within its planning and development regulation jurisdiction. The Town Administrator, or designee, is appointed as the subdivision administrator.

D-802. Applicability.

(a) For the purpose of this Article, subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(b) A local government may provide for expedited review of specified classes of subdivisions.

(c) A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all of the following:
 - a. All lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot. (2019-111, s. 2.4.)

Commented [LT1]: Definitions: reminder to change major and minor, definition of subdivision and exemptions; conservation and conventional to match state.

D-803. Review process, filing, and recording of subdivision plats.

(a) The procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration are as follows:

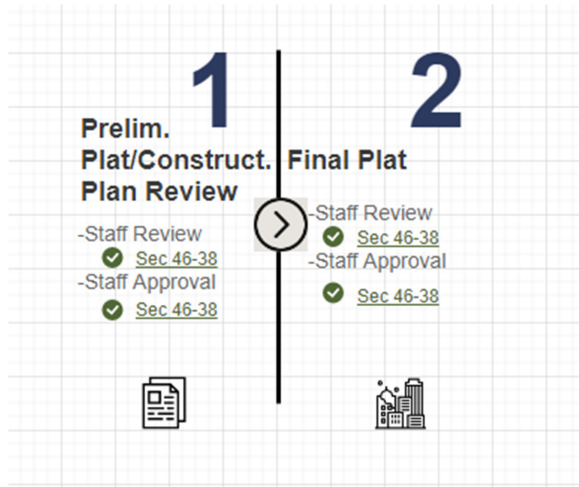
(1) Minor Subdivision.

a. Preliminary Plat. Except as set forth in Section 802(c) above, for all Minor Subdivisions a preliminary plat must be submitted to the subdivision administrator along with a fee in accordance with a fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat prior to approval. The subdivision administrator shall review the plat within ten days of its submission for compliance with requirements of this UDO and shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and shall approve, approve based on certain conditions, or disapprove the preliminary plat.

b. Construction plans. In addition to filing a preliminary plat, construction plans shall be submitted for review and comment (including from outside agencies referenced in subsection (b) below. Applicable Land Development Permits (such as Zoning Permits, Grading Permits, and Building Permits) shall be issued in accordance with Article __, below. No land disturbing activity shall commence prior to construction plan approval and issuance of the applicable Land Development Permit.

c. Final Plat. Within one year of the approval of the preliminary plat, a final subdivision plat must be submitted to the subdivision administrator along with a fee in accordance with the fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to approval. No final plat shall be approved until security (e.g. bond, letter of credit) is provided in accordance with Section D-804 (c), below.

Technical requirements and certifications for the final plats for Minor Subdivisions are set forth in Appendix __.

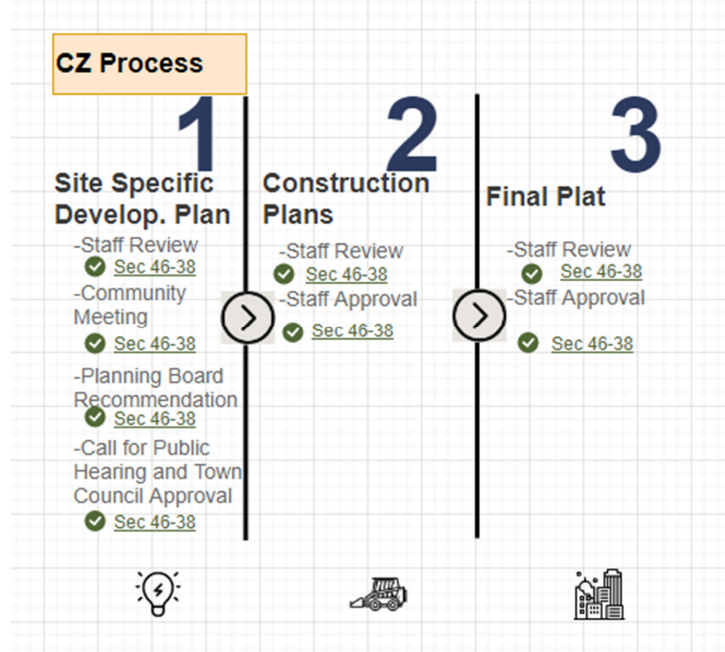


(2) Major Subdivisions.

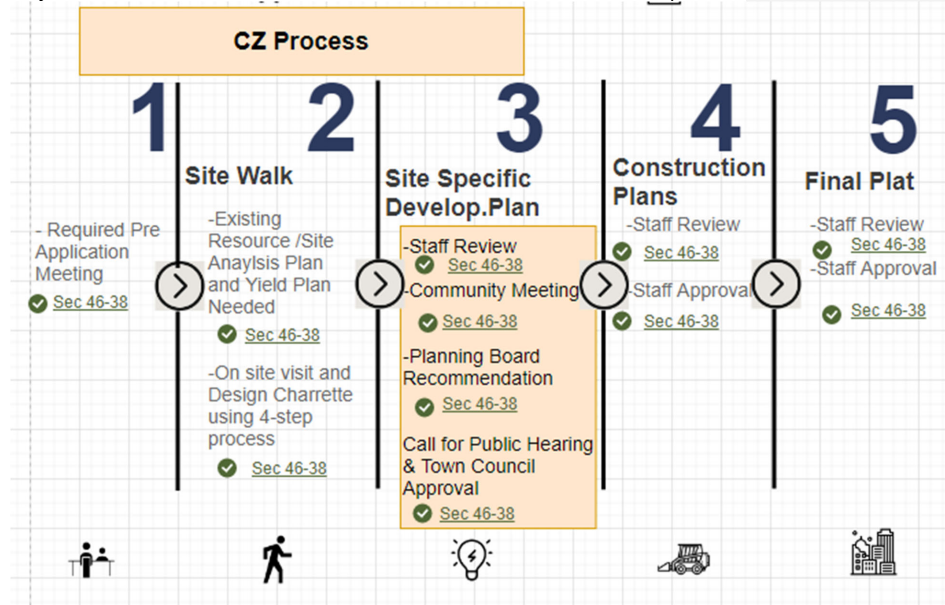
- a. Conditional Zoning (no “preliminary plat” needed). Proposed development that requires a Major Subdivision are reviewed through the Conditional Zoning process. Thus a separate “preliminary plat” is not required.
- b. Construction Plans. After a Conditional Zoning approval, construction plans shall be submitted for review and comment (including from outside agencies referenced in subsection (b) below. Applicable Land Development Permits (such as Zoning Permits, Grading Permits, and Building Permits) shall be issued in accordance with Article __, below. No land disturbing activity shall commence prior to construction plan approval and issuance of the applicable Land Development Permit.
- c. Final Plat. Within one year of the approval of the Conditional Zoning, a final subdivision plat must be submitted to the subdivision administrator along with a fee in accordance with the fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to approval. No final plat shall be approved until security (e.g. bond, letter of credit) is provided in accordance with Section D-804 (c), below.

Technical requirements and certifications for the final plats for Major Subdivisions are set forth in Appendix __.

Major Subdivision Process – Traditional Residential Development



Major Subdivision Process – Conservation Residential Development



(b) The following agencies shall be involved in review of final plats.

- (1) The district highway engineer as to proposed State streets, State highways, and related drainage systems.
- (2) Union County Environmental Health and Union County Public Works
- (3) Any other agency or official designated by the governing board including NCDENR, and NCDWQ.

(c) Final decisions on a subdivision plat are administrative. The subdivision administrator shall provide notice of the decision in writing as provided by D-403(b).

D-804. Contents and requirements of regulation.

(a) Purposes. The purpose of these subdivision regulations are to provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(b) Plats. A plat shall be prepared, approved, and recorded pursuant to the provisions of the regulation whenever any subdivision of land takes place. All such recorded plats show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius

Commented [LT2]: 46-43 (b)6-7 Reminder to insert the recording of maintenance plans and agreements and permanent protection of conservation land somewhere [likely appendix with technical requirements but may end up better here]

and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice. Additional standards for plats are set forth in Appendix [redacted].

Commented [KB3]: Move all technical standards to Appendix

(c) Improvement and guarantee standards

Commented [KB4]: Weddington 46-44(b) need to confirm if state statute requires any changes

(1) **Optional agreement.** In lieu of requiring the completion, installation and, if applicable, dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall guarantee completion of all required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat within two years from the date of final plat approval, unless otherwise specified in the written agreement. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the town; provided, however, that all other requirements of this article are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees in an amount equal to 1.25 times the costs, as estimated by the subdivider and approved by the engineer, of installing all required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. The amount shall be subject to the approval of the town council.

a. **Surety performance bond.** The subdivider shall obtain a performance bond from a surety bonding company satisfactory to the town, as applicable. A surety bonding company must at minimum be: (1) registered to do business with the North Carolina Secretary of State; (2) licensed to issue surety bonds in the State of North Carolina by the North Carolina Department of Insurance; (3) rated at least "B+" by a reputable bond rating agency; and (4) possess a minimum of \$50,000,000.00 in assets. The town council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The bond(s) must contain the following provisions: (1) the bond(s) shall remain in effect until such time as all improvements are installed and approved by the town; (2) the surety bonding company, within 15 days of the town providing notice of default, shall take over and complete all improvements or pay the town in cash the estimated costs of installing the improvements as determined by the town's planner or engineer; and (3) the town shall be able to draw upon the bond(s) in the event that the subdivider defaults upon its agreement with the town in accordance with subsection (3). Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.

b. **Letter(s) of credit.** The subdivider shall obtain an irrevocable letter(s) of credit issued by a commercial bank satisfactory to the town council. The commercial bank issuing the letter of credit must be: (1) organized under the laws of the United States of America or any state of the United States, or the District of Columbia; (2) authorized to do business in the State of North Carolina; (3) subject to regulation by the State of North Carolina or federal banking regulatory authorities; and (4) possess combined capital stock, surplus and undivided profits aggregating at least \$100,000,000.00. The town council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The letter(s) of credit must contain the following provisions: (1) the letter(s) of credit shall be evergreen and shall not be subject to expiration until such time as all improvements are installed and approved by the town council, and shall require

Commented [LT5]: Allowed?

the issuing commercial bank to give at least 60 days' notice of its intent to terminate the letter(s) of credit, upon which the town can draw upon the letter(s) of credit; (2) the town shall be able to draw upon the letter(s) of credit at any time on or before its expiration; (3) the commercial bank shall, upon written notification by the town council that the subdivider is in default, immediately pay to the town the full amount, or any lesser amount of the letter(s) of credit, if requested by the town council; (4) the town shall be able to draw upon the letter(s) of credit in the event that the subdivider defaults upon its agreement with the town in accordance with subsection (2) of this section; and (5) the letter(s) of credit shall allow for presentment and collection at a location within a 30-mile radius of the town.

c. *Cash or equivalent surety.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, such as a certificate of deposit or treasury-issued security, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the town council.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the town council an agreement between the financial institution and the subdivider guaranteeing the following:

1. Said escrow account shall be held in trust for the town until released by the town council and may not be used or pledged by the subdivider in any other matter during the term of the escrow;
2. That the financial institution shall, upon written notification by the town council stating that the subdivider is in default, immediately pay to the town all funds in said account, excluding any interest earned; and
3. That the duration of said escrow account(s) shall be until such time as all improvements are installed and approved by the town council, or until the subdivider provides the town with an acceptable, alternative guarantee for the completion of installing all remaining required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.

(2) *Duration of financial guarantees.* 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 24 months, unless otherwise specified in the written agreement as described in subsection 46-44(b)(1). All subdivisions whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be in default, unless said guarantee is extended with the consent of the town council to a future date not to exceed six months, or to a date determined by council.

(3) *Default.* Upon default by the subdivider, the town council, as applicable, may require the surety, the letter of credit issuer, or the financial institution holding the escrow account to pay all or a portion of the bond, letter of credit, or escrow account to the town. Upon payment, the town shall expend said funds to complete all or any portion of the required improvements as it deems necessary. For purposes of this section, default shall constitute any of the following: (1) failure on the part of the subdivider to complete, within the time period specified in the agreement in subsection (b)(1) of this section, the required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat; (2) failure on

the part of the subdivider to install any improvement in accordance with the specifications or the regulations in the town's ordinances; or (3) transfer of ownership of any portion of the property or lots located within the subdivision to another person or entity under no legal obligation to install the required improvements (e.g., foreclosure). If one of the above events occurs, nothing herein shall prevent the town from declaring default prior to the expiration of the time period specified in subsection (b)(1) of this section.

(4) *Release of guarantee surety.* In its sole discretion, the town council may release a portion of any security posted as the improvements are completed and recommended for approval by the town planner, so long as the town maintains the posted security in an amount equal to at least 1.25 times the estimated costs of installation of the remaining improvements. However, notwithstanding the above, nothing shall require the town council to release any portion of security posted until such time as all improvements are installed and approved by the town council. Within 30 days after receiving the town planner's recommendation, the town council shall approve or not approve said improvements. Once all required improvements on the preliminary plat for that portion of the subdivision to be shown on the final plat have been installed and approved, then all security posted for said improvements shall be released by the town council.

D-805. Notice of new subdivision fees and fee increases; public comment period.

(a) A local government shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this Article at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The local government shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the local government.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development regulation jurisdiction of the local government.
- (3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the local government for the purpose of notification as required by this section.

If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of this subsection by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing board of the local government shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12. (2019-111, s. 2.4.)

806. Effect of plat approval on dedications.

The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on

the plat. However, any governing board may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval. (2019-111, s. 2.4.)

D-807. Penalties for transferring lots in unapproved subdivisions.

(a) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of that local government, thereafter subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

(b) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:

- (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
- (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
- (3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
- (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be

required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(c) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds. (2019-111, s. 2.4.)

D-808. Appeals of decisions on subdivision plats.

Appeals of subdivision decisions may be made pursuant to G.S. 160D-1403. (2019-111, s. 2.4.)

Article 9.

Regulation of Particular Uses and Areas.

Part 1. Particular Land Uses.

D-901. Regulation of particular uses and areas (Authority). The Town has authority to regulate uses and areas in accordance with Chapter 160D of the North Carolina General Statutes, specifically including without limitation Article 9 of 160D.

D-902. Adult businesses. The Town has authority to regulate adult businesses as set forth in N.C.G.S. 160D-902. Consistent with that authority

Sec. 58-24. - Special requirements for adult establishments.

Adult establishments are permitted only in the B-2 district and only if they satisfy the following requirements:

- (1) Any structure containing an adult establishment must be at least 1,000 feet from any residentially zoned property, school, church or house of worship, child care center, park or playground (each of which constitutes a protected use). An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a protected use within 1,000 feet of it.
- (2) Any structure containing an adult establishment must be at least 1,000 feet from any other adult establishment.
- (3) For purposes of this section, the distance between a structure containing an adult establishment and a protected use shall be measured by a straight line from the closest edge of the structure containing the adult establishment to the closest portion of the property line of the property on which the protected use is located. For purposes of this section, the distance between two structures containing adult establishments shall be measured by a straight line connecting the closest edges of those structures.
- (4) No more than one adult establishment may be located within a single structure.
- (5) The ordinance from which this section is derived becomes effective on October 9, 2006. All existing adult establishments that are nonconforming with respect to subsections (1) or (2) of this section, must comply with the provisions of this section within eight years of the effective date.

D-903. Agricultural uses. [reserved]

D-904. Airport zoning. [reserved]

D-905. Amateur radio antennas. [reserved]

D-906. Bee hives. [reserved]

D-907. Family care homes.

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

(1) Family care home. - A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

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

(c) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. No local government may require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; provided, however, that a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements. (2019-111, s. 2.4.)

D-908. Fence wraps.

Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the local government may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required. (2019-111, s. 2.4.)

D-909. Fraternities and sororities. [reserved]

D-910. Manufactured homes. [reserved]

D-911. Modular homes.

Modular homes, as defined in G.S. 105-164.3(21b), shall comply with the design and construction standards set forth in G.S. 143-139.1. (2019-111, s. 2.4.)

D-912. Outdoor advertising. See Section __below for signage requirements. Any required removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance shall be in accordance with N.C.G.S. 160D-912.

D-913. Public buildings.

All local government zoning regulations are applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, except as provided in Part 4 of Article 9 of this Chapter, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegate. (2019-111, s. 2.4.)

D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) Notwithstanding the foregoing, solar collectors as described in subsection (a) of this section are prohibited if (i) they are visible by a person on the ground and (ii) are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4.)

D-915. Temporary health care structures.

(a) The following definitions apply in this section:

- (1) Activities of daily living. - Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First- or second-degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(4) Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

(5) Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A local government shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(c) A local government shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the local government. The local government may charge a fee of up to one hundred dollars (\$100.00) for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The local government may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The local government may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the local government of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.

(f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of this Chapter, as if the temporary family health care structure were permanent real property.

(g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is

needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.

(i) The local government may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation. (2019-111, s. 2.4.)

D-916. Streets and transportation. [reserved]

D-917. Reserved for future codification purposes.

D-918. Reserved for future codification purposes.

D-919. Reserved for future codification purposes.

D-920. Additional Supplemental Regulations for Particular Uses

Residential Development

Sec. 58-23. - Planned residential developments.

Commented [KB1]: Consider deleting

(a) Planned residential developments (PRDs) are allowed as conditional zoning districts in the R-CD, R-80, R-60 and R-40 zoning districts. PRDs are established in order to provide a residential development at low densities consistent with suitability of the land and the rural character of the town. In order to encourage high quality design and innovative arrangement of buildings, these districts provide flexibility from the conventional use and dimensional requirements of the general districts. Unlike other developments in the town, a PRD may be allowed to have private streets that are not owned and maintained by the state department of transportation (DOT). In addition, a PRD may be a gated community where a gate is placed at the outer periphery of the development in order to restrict access. All PRDs must be developed in accordance with the regulations of this section, other applicable regulations of this chapter, and chapter 46.

(b) The town council may approve a PRD for any new development proposed in the town. Existing developments in the town shall not be considered as PRDs and are not subject to any PRD regulation.

(1) Uses permitted in a PRD and minimum lot and setback requirements for such uses in a PRD shall be as allowed in the underlying zoning district.

(2) As PRDs are conditional zoning districts, a conditional zoning application must first be approved by the town council in accordance with section 58-271. Once conditional zoning is approved, the developer shall comply with all applicable procedures of chapter 46.

(3) The design and layout of any gatehouse, external fence, walls and berms that serve the entire PRD and other amenities to the PRD that are visible from any public street shall be included with the conditional use permit application. All such facilities shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the

proposed development and shall be attractive to motorists and pedestrians from adjoining public streets.

- (4) With the exception of the placement of the gate and/or guardhouse in a private street, any road built within a PRD shall be built to state standards and shall meet all applicable minimum right-of-way, pavement, and construction standards for public roads as established by the state department of transportation. A certified engineer shall verify that all roads within the PRD conform to all required state department of transportation standards for roadway and storm drainage design. The NCDOT Built-To Standards Checklist (available at town hall upon request) will be required to be submitted to the town zoning staff for review and approval. The town reserves the right to have streets inspected during the construction phase to insure that they are being built in accordance with all applicable state DOT standards. The PRD developer of the subdivision shall bear all costs borne by the town in association with such inspections.
- (5) Before the approval of a final plat for a PRD, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and private streets within the PRD. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws.
- (6) The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences or berms located at the external periphery of the PRD, as well as the maintenance and upkeep of any private streets in the PRD, shall be the sole responsibility of the developer and/or any duly incorporated and active homeowners' association. Accordingly, any bond accepted by the town per subsection 46-49(b) for a PRD subdivision shall be calculated using the construction costs of all such facilities (in addition to the cost of streets as provided in subsection 46-49(b)) and shall remain in place until the town council is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (which generally the town council shall not deem to have occurred until one year, at a minimum, after a homeowners' association is incorporated and active) and has made necessary assessments for, and has otherwise taken over the full responsibility of, maintaining and repairing such streets and facilities. The decision to release such bonds shall rest entirely within the town council's discretion and shall be made based upon the homeowners' association's financial ability to properly maintain and repair these streets and facilities. After the bond is released by the town council, the homeowners' association shall be required to submit to the town, by January 15 of each calendar year, the names, addresses and telephone numbers of all duly elected members of its board of directors as well as a copy of its annual financial statements showing, at a minimum, the amount of funds budgeted to maintain such streets and facilities. In the event the town council, in its discretion, believes the homeowners' association is not adequately maintaining or repairing the streets or facilities or is not making assessments necessary to cover the cost of said maintenance or repairs, it may, after holding a hearing, require the homeowners' association to provide a bond as required in subsection 46-49(b). The hearing described above, shall be duly noticed by publication as provided in this chapter and by mailing notice of the hearing to at least one officer (according to the most recent list of officers the town has received) of the homeowners' association or to the homeowners' association's registered agent at least ten days before the hearing. The homeowners' association's bond may be eliminated, modified, or reinstated at the discretion of the town council after a hearing notice as described above.
- (7) Subdivisions which have an entrance gate are subject to the following regulations: The homeowner's association will provide the access code to the gate and an emergency contact

number to the fire department, the Union County Sheriff and other emergency services and will be responsible for maintenance, testing and repairs of all functions of the gate. An annual inspection and test of the gate system shall be performed and the results submitted to town hall during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Should there be a problem with the operation of the entrance gate, the gate shall remain open and accessible until the gate is repaired and tested. Any homeowner's association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to town hall.

(Ord. No. 87-04-08, § 4.16, 4-8-1987; Ord. No. O-2005-12, 12-12-2005; Ord. No. O-2009-05, 7-13-2009; Ord. No. O-2011-12, 9-12-2011; Ord. No. O-2013-13, 12-9-2013; Ord. No. O-2015-15, 11-9-2015)

ARTICLE III. - REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION AND MINIMUM STANDARDS OF DESIGN FOR RESIDENTIAL DEVELOPMENT

Sec. 46-72. - General adherence to article provisions.

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Sec. 46-73. - Suitability of land.

- (a) Land which has been determined by the town council on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- (b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage. See section 46-75(f) below.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, if available, located and constructed to minimize flood damage.

Sec. 46-74. - Subdivision and street naming.

The name of the subdivision and the names of the streets within the subdivision shall not duplicate or closely approximate the name of an existing subdivision or any existing streets within the county.

Sec. 46-75. - Subdivision design standards.

(a) *Blocks.*

- (1) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated, zoning

requirements, needs for vehicular and pedestrian circulation, control and safety of street traffic, limitations and opportunities of topography, and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1,500 feet in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the town council may authorize block lengths in excess of 1,500 feet.

(3) Blocks shall have sufficient width to allow two rows of lots of minimum depth except where single row lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

(b) *Lot dimensions.*

(1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located.

(2) All minimum lot dimensions may be increased in order to meet any applicable requirements of the appropriate county health department.

(c) *Location of house sites.* Applicants shall identify house site locations in the tract's designated development areas designed to fit the tract's natural topography, be served by adequate water and sewerage facilities, and provide views of and/or access to adjoining conservation lands in a manner consistent with the preservation of the conservation lands.

(d) *Orientation of residential lot lines.*

(1) Side lot lines shall be substantially at right angles or radial to street lines.

(2) Double frontage lots shall be avoided wherever possible.

(e) *Panhandle lots.* Panhandle lots and other irregular shaped lots may be approved in cases where such lots would not be contrary to the purpose of this chapter, heighten the desirability of the subdivision, and, where necessary, enable a lot to be served by water and/or a waste disposal system. All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing an access strip to the lot. The length of said strip shall not exceed 200 feet. Said strip shall not be used to determine lot area or width or setback lines.

(f) *Lots in floodplains.* Lots within floodplains shall not be approved for recordation unless the following provisions are met:

(1) *Lots wholly subject to flooding.* No proposed residential building lot that is wholly subject to flooding, as defined herein, shall be approved.

(2) *Lots partially subject to flooding.*

a. No proposed residential building lot that is partially subject to flooding as defined herein shall be approved unless there is established on the lot plan a contour line representing an elevation no lower than two feet above the base flood line as defined in section 58-229. All buildings or structures designed or intended for residential purposes shall be located on such a lot such that the lowest useable and functional part of the structure shall not be below the elevation of the base flood line, plus two feet.

b. For the purpose of this subsection, the term "useable and functional part of structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement, utility rooms, crawl spaces, attached carports, garages and mechanical appurtenances such as

furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and cleanouts; provided that openings for same serving the structure are above the base flood line.

- c. Where only a portion of the proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 10,000 square feet. The useable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any remaining area of the lot lying within the area of the base flood (100-year flood) as shown on the flood boundary and floodway map described in section 58-229.

(g) *Easements.* Easements shall be provided as follows:

- (1) *Utility easements.* A utility easement of not less than five feet in width shall be provided to the side and rear of each lot and in other locations where deemed necessary. This requirement may be waived by the subdivision administrator if the subdivider can certify on the final record plat where accommodations for such utilities are to be located. Lots in minor subdivisions are exempt from this requirement upon certification that they may be serviced by existing utilities along the public rights-of-way. Wider easement widths may be required if determined necessary by the utility company involved.
- (2) *Drainage easements.* Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose and in accordance with section 58-520. Other drainage easements may be required for the proper drainage of all lots.
- (3) *Access easements.* Private and recorded easements created according to subsection 46-76(a) that provide access from an easement lot to a public road.

(h) *Stream valleys, swales, springs, and other lowland areas.* Stream valleys, swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. Accordingly, the following activities shall be minimized in such areas:

- (1) Disturbance to streams and drainage swales.
- (2) Disturbance to year-round wetlands, areas with seasonally high-water tables and areas of surface water concentration.
- (3) Because of their extreme limitations, stream valleys, swales and other lowland areas may warrant designation as conservation lands. They may also require adjoining buffer lands to be included as conservation lands, to be determined by an analysis of the protection requirements of such areas as determined by the town council on a case-by-case basis upon finding that designation of such areas as conservation land would have significant and positive long-term environmental impact on the conservation lands.

(i) *Forestlands.*

- (1) Forestlands often occur in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes. Forestlands serve many functions, including soil stabilizers, particularly on moderate to steep slopes, a means of ameliorating harsh

microclimatic conditions in both summer and winter, a source of wood products, natural wildlife habitats, and visual buffers.

- (2) Because of their resource values, all forestlands on any tract proposed for a conservation subdivision shall be evaluated to determine the extent to which they should be designated partly or entirely as conservation lands. Evaluation criteria include: configuration and size, present conditions, site potential (i.e., the site's capabilities to support forestlands, based upon its topographic, soil and hydrologic characteristics), ecological functions (i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats), relationship to forestlands on adjoining properties and the potential for maintaining continuous forestland areas.
- (3) The evaluation of the tract's forestlands shall be undertaken consistent with the town's land audit. This evaluation shall be submitted as a report and made a part of the application for a sketch plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of forestland areas.
- (4) In designing a conservation subdivision, the applicant shall be guided by the following standards:
 - a. Proposed site improvements shall be located, designed and constructed to minimize the loss or degradation of forestland areas.
 - b. Disturbance or removal of forestlands occupying environmentally sensitive areas shall be undertaken on a limited, selective, as needed basis. In particular, areas to be designed around and conserved, whenever possible, include the following: areas with a high diversity of tree species and tree ages; areas without invasive species; and individual trees of significant diameter. Because different tree species have different growth characteristics, certain species become significant at different diameters. For example, fast-growing species such as conifers become significant at 15 inches dbh. Relatively fast-growing hardwoods such as sweet gum and sycamore become significant at 12 inches dbh. Other hardwoods such as oaks and maples become significant at 12 inches dbh. Understory trees such as dogwood, redbud, waterbeechn, and holly become significant at eight inches dbh.
 - c. No clearing or earth disturbance, except for soil analysis for proposed sewage disposal systems, shall be permitted on a site before preliminary plat approval.
- (j) *Slopes.* Moderately sloping lands (ten to 15 percent) and steeply sloping lands (over 15 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.
 - (1) For both conventional and conservation subdivisions, development in areas containing slopes of 15 to 25 percent shall be minimized. The only permitted grading beyond the terms described above, shall be in conjunction with the siting of a dwelling, its access driveway and the septic system.
 - (2) For both conventional and conservation subdivisions, no site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.

- (3) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the town's consulting engineer, no other available alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.
- (k) *Significant natural areas and features.* Natural areas containing rare or endangered plants and animals, as well as other features of natural significance may exist in the town. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features identified by the applicant's existing resources and site analysis plan, as required in subsection 46-42(d)(1), by incorporating them into proposed conservation lands.
- (l) *Rural road corridors and scenic viewsheds.* All applications shall preserve the viewsheds along rural roads by incorporating them into conservation lands or otherwise providing for building setbacks and architectural designs to minimize their intrusion. Views of developable lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping to the greatest degree possible.
- (m) *Design standards specific to conservation land.* Standards to be followed regarding the design of the conservation land are as follows:
- (1) Except as otherwise permitted, conservation lands shall be free of all structures except historic buildings, stone walls, and structures related to conservation land uses. The town council may approve structures and improvements required for storm drainage, sewage treatment and water supply within such conservation land on finding that such facilities would not be detrimental to the conservation land, and that the acreage of lands required for such uses is not credited towards minimum conservation acreage requirements for the tract, unless the land they occupy is appropriate for passive recreational use.
 - (2) Conservation lands shall not include parcels smaller than three acres, have a length-to-width ratio of less than 4:1, or be less than 75 feet in width, except for such lands specifically designed as neighborhood greens, playing fields or trail links. Exceptions to this requirement may be granted, on a case-by-case basis, where, due to topography, shape, size, or location of the tract, such requirements are determined by the town council when reviewing the preliminary plat to be infeasible, impractical, or serve no meaningful purpose.
 - (3) Conservation lands shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe and convenient pedestrian access to conservation land.
 - (4) Conservation lands shall be interconnected wherever possible to provide a continuous network of conservation lands within and adjoining the subdivision.
 - (5) Conservation lands shall provide buffers to adjoining parks, preserves or other protected lands.
 - (6) Except as provided herein, conservation lands shall be provided with pedestrian pathways for use by the residents of the subdivision. Public access shall be provided on such trails if they are linked to other publicly accessible pathway systems within the town. Provisions shall be made for access to the conservation lands, as required for land management and emergency purposes. Access to conservation lands for agricultural or horticultural purposes may be appropriately

restricted for public safety purposes and to prevent interference with agricultural or horticultural operations.

(7) Conservation lands shall be undivided by streets, except where necessary for proper traffic circulation.

(8) Conservation lands shall be made subject to such agreement with the town and such conservation easements shall be duly recorded in the office of the county register of deeds for the purpose of permanently preserving the common open space for such uses.

(9) Conservation lands shall be located in a manner that is consistent with the town's land use plan and the town's conservation land audit, which identifies an interconnected network of conservation lands.

(n) *Delineation of conservation lands.* The delineation of conservation lands shall be as provided for in subsection 58-58(4).

(1) The minimum percentage and acreage of required conservation lands shall be calculated by the applicant and submitted as part of the sketch plan. At a minimum, 50 percent of the gross acreage of the tract will be required to be retained as conservation land. When a subdivision lies on both sides of a major or minor thoroughfare, all attempts should be made to have 50 percent of each side's gross acreage designated as conservation land. However, the town may allow flexibility on the distribution of conservation land in situations where there is greater logic to preserving special features on one side of the road, or due to locating homes on the other side due to the relative absence of special site features with greater conservation value.

Not more than 20 percent of the minimum required area of conservation lands shall be comprised of wetlands, submerged lands, steep slopes, floodways, or land under high voltage electrical transmission lines (conducting 69 kilovolts or more).

(2) Proposed conservation lands shall be designated using the existing resources and site analysis plan (submitted with the sketch plan) as a base map.

(3) In delineating secondary conservation areas, the applicant shall use the following tier system as a guide, with those lands included in tier A having the highest priority for preservation; provided, however, that in certain portions of the town, the priorities defined may be altered by the town in order to maximize achievement of the goals and objectives of maintaining open space through conservation subdivisions:

a. Tier A, highest priority.

1. Forestlands.
2. Steep slopes (greater than 25 percent).
3. Viewsheds from thoroughfares.

b. Tier B, medium priority.

1. Farmlands, meadows, pastures, and grasslands.
2. Historic sites.

c. Tier C, lowest priority.

1. Moderate steep slopes (15 to 25 percent).

2. Rock formations.

3. Lands adjacent to parks.

- d. Conservation areas shall be identified with wooden signs and accessed by trails leading from the street system. Trail heads shall be identified either with signage or with short sections of split-rail fencing.

(o) *Resource conservation standards for site preparation and cleanup.*

(1) Protection of vegetation from mechanical injury. Where earthwork, grading, or construction activities will take place in or adjacent to forestlands, or other significant vegetation or site features, the town shall require that the limit of disturbance be delineated, and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to the commencing of, and shall be maintained throughout, the period of construction activity.

(2) Protection of vegetation from excavations.

a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be avoided.

b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible.

(3) Conservation subdivisions shall be designed to harmonize with the existing terrain, so that mass grading can be minimized, and the natural character of the underlying land will be preserved, to the maximum extent feasible. Site designers shall therefore lay out streets and house lots to conform to the existing topography as much as possible.

(p) *Utilities.* All utility lines (electric, water, sewer, telephone, gas, etc.,) shall be located underground in all subdivisions.

(q) Shade trees shall be shown within the cleared right-of-way at 40-foot intervals along both sides of proposed streets, in areas where trees have been removed or did not previously exist. Such trees shall be capable of attaining a mature height of at least 40 feet and shall generally be of a local native species such as frequently found in the natural woodlands of the area, although other species such as sycamore and linden are also good choices. Non-native trees with invasive tendencies such as Norway maple shall be avoided.

(r) *Neighborhood green required.* To the greatest extent feasible, each conservation subdivision should provide at least one neighborhood green, not less than 10,000 square feet in area, planted with shade trees at 40-foot intervals around the edge.

Sec. 46-76. - Road standards.

(a) *Public roads.*

(1) All subdivision lots, except as provided herein and in section 58-10, shall abut public roads.

(2) Exceptions to the public road frontage requirements shall be as follows: Any lot or tract shall be allowed to have easement lots created for construction of single-family dwellings as the principal use. Creation of such lots is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to the disproportionate costs of required improvements as compared to the relative value of lots created and is within the spirit and intent of this chapter. These lots shall be created as follows:

- a. The applicant shall submit an application to the planning board with a sketch plat showing the proposed easement lots for approval to proceed further as specified in this section.
 - b. All access easements shall be at least 45 feet in width and shall meet or exceed the state department of transportation minimum standards for subdivision road width where possible. The travel surface of said easement shall be at least 16 feet in width. The travel surface need not be paved. The easement shall be maintained at all times in a condition that is passable for service and emergency vehicles.
 - c. The creation of easement lots shall follow the procedures of a minor subdivision as outlined in section 46-40. In addition, a statement shall be placed on the subdivision plat acknowledging that said lots were being created upon a privately maintained and recorded easement, and a statement indicating the parties responsible for maintaining the easement.
 - d. Creation of such easement lots and access easements shall not impair future extension of an adequate system of public streets to serve such lots.
 - e. Easement lots shall not be further subdivided unless the newly created lots abut a public road. Any additional subdivision of easement lots shall be a major subdivision and shall be reviewed using the major subdivision plat approval process.
 - f. If public road access becomes available to easement lots, all affected lot owners shall have the easement terminated of record.
- (3) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designated as a public street and shall be conclusively presumed an offer of dedication to the public. Before the approval of a final plat, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and streets. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws. Where streets are dedicated to the public but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street shall be included with the final plat. A written maintenance agreement with provision for maintenance of the street until it is accepted as part of the state system.
- (b) *Marginal access drive.* Where a tract of land to be subdivided adjoins a thoroughfare as designated on the adopted LARTP or the comprehensive transportation plan maps, and the lots front the thoroughfare, the subdivider shall be required to provide a marginal access drive parallel to the thoroughfare. A marginal access drive shall meet the following requirements:
 - (1) The marginal access drive shall be a minimum of 18 feet wide and located on a shared access easement that is a minimum 25 feet wide.
 - (2) The access easement shall be a minimum of 50 feet from the thoroughfare right-of-way.
 - (3) Existing screening shall be kept and/or supplemented between the thoroughfare and access easement.
 - (4) The marginal access drive shall be built to NCDOT specifications.
 - (5) A recorded shared access agreement shall be provided prior to approving the final plat.
 - (c) *Street design and standards.* Minimum street right-of-way and pavement widths, as well as other engineering design standards shall be in accordance with the minimum design criteria for subdivision

roads as established from time to time, by the division of highways, state department of transportation publication entitled "Subdivision Roads: Minimum Construction Standards," except where modified by the Town of Weddington Roadway Standards.

(d) *Cul-de-sacs.*

- (1) Permanent dead-end streets shall not provide sole access to more than 16 dwelling units or 1,200 linear feet, whichever is less. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround.

When cul-de-sacs end in the vicinity of an adjacent undeveloped property capable of being developed in the future, a right-of-way or easement shall be shown on the final plan to enable the street to be extended when the adjoining property is developed. Cul-de-sacs in conservation subdivisions shall generally include a pedestrian connection to the open space behind the lots they serve, preferably at the end of the cul-de-sac.

- (2) Cul-de-sacs shall generally be designed with central islands (preferably teardrop shaped) where trees are retained or planted. Cul-de-sac pavement and right-of-way diameters shall be in accordance with NCDOT design standards. Designs other than the "bulb" end design with a circular right-of-way will be subject to the approval of the Division Engineer of the Division of Highways, North Carolina Department of Transportation and the town council after review on an individual basis.

Cul-de-sacs less than 600 feet long shall generally be designed as "closes," with two one-way streets bounding a central "boulevard island" not less than 35 feet across. This can be easily accomplished by extending the outer edges of the turning half-circle perpendicularly to the street from which the cul-de-sac springs. The central open space offers opportunities for tree planting and "rain garden" infiltration areas for stormwater (particularly when the street pavement is sloped inward toward the central open space).

(e) *Street layout.*

- (1) *Conformity to existing maps or plans.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets. Streets shall be designed and laid out in a manner that minimizes adverse impacts on the conservation lands. To the greatest extent practicable, wetland crossings and new streets or driveways traversing steep slopes shall be avoided.
- (2) *Continuation of adjoining streets.* The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended. Street connections shall be designed so as to minimize the number of new cul-de-sacs and to facilitate easy access to and from homes in different part of the tract (and on adjoining parcels). In certain cases where standard street connectivity is either not possible or not recommended, the town may require the installation of one or more emergency access gates leading to a gravel drive connecting with the adjacent property or roadway. The homeowner's association is responsible for the maintenance, testing and repairs of all functions of emergency access gates. An annual inspection and test of the gate shall be performed and the results submitted to town hall. Any homeowner's association that is found to be in violation

shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to town hall.

- (3) *Large tracts or parcels.* Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.
 - (4) *Through traffic discouraged on residential collector and local streets.* Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed, or walkways offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
 - (5) *Ingress and egress.* Two points of ingress and egress onto an adjoining public road from subdivision containing more than 15 lots is required. In conservation subdivisions, proposals for more than two points of ingress and egress onto any adjoining public road shall be allowed on a case-by-case basis only when determined by the town council that it would not have a negative impact on traffic levels and patterns and the viability of the conservation subdivision.
 - (6) Developable lots shall be accessed from interior streets, rather than from roads bordering the tract. Single loaded streets are encouraged to the greatest degree feasible.
 - (7) Streets shall be designed, wherever practicable, with green "terminal vistas," for example by situating some conservation areas and other open space along the outside edges of street curves (for greater visibility). In addition, other visible open space shall be provided, such as in neighborhood greens that are bordered by streets on several sides, or along non-curving sections of the street system, wherever practicable.
- (f) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at both the Charlotte and Monroe Offices of the Division of Highways.
- (g) *Reservation of future right-of-way.* Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the comprehensive transportation plan or LARTP adopted by the town, and whenever such right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this chapter will be made at the edge of the full/future right-of-way.
- (h) *Improvements within the town limits.*
- (1) Approval of the final plat shall be subject to the subdivider having installed the improvements hereinafter designated or having guaranteed, to the satisfaction of the town council, the installation of said improvements.
 - (2) The following requirements shall apply to all streets within the corporate town limits of the town, or if annexation of the subdivision to the town is desired or required by the subdivider:
 - a. *Grading.* All streets shall be graded to their full right-of-way width. Finished grade, cross-section and profile shall be in accordance with the Town of Weddington standards and the state department of transportation standards, as established herein.
 - b. *Paving.* Road base and paving shall be installed in accordance with the Town of Weddington standards and the state department of transportation standards, as established herein.

- c. *Street signs.* Appropriate street name signs which meet the standards of town/county specifications shall be placed at all street intersections at the subdivider's expense.

Sec. 46-77. - Buffering.

(a) *Buffering thoroughfares.*

- (1) Residential developments shall be designed so that lots face toward either internal subdivision streets or toward existing state roads across conservation land such as "foreground meadows."
- (2) Where the side or rear yards of lots may be oriented toward existing thoroughfares roads a buffer at least 100 feet wide of existing woodland providing adequate visual screening throughout the year is required. The buffer width may be reduced to 50 feet if plantings are installed to include year-round screening.
- (3) Earthen berms are not a permitted design approach as they are inherently nonrural and would inappropriately alter the rural character of the R-CD, even if landscaped.
- (4) If the required buffer exceeds 15 percent of the total acreage of the parcel, the zoning administrator may reduce the required buffer to an amount equal to 15 percent, provided that sufficient evergreens are planted to create an effective visual buffer, as described above.

(b) *Buffering other uses.* The buffer requirement is 50 feet between homes in the proposed subdivision and any other nonresidential use. Section 58-8 in the zoning ordinance lists the required plantings of trees and shrubs within buffers and the standards for planting.

(c) The preliminary plat shall be accompanied by a statement providing for buffer area permanent maintenance by a method acceptable to the town. Maintenance of the buffer by the town shall not be an acceptable method. **Sec. 46-78. - Placement of monuments.**

Unless otherwise specified by this chapter, the Standards of Practice for Land Surveying, as adopted by the state board of registration for professional engineers and land surveyors, under the provisions of 21 N.C. Admin. Code 56, shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties, to determine the location, design and material of monuments, markers, control corners, and property corner ties, and to determine other standards and procedures governing the practice of land surveying for subdivisions.

Sec. 46-79. - Connection to public water lines.

- (a)** If county or municipal water lines are located within one-half mile of a subdivision of ten to 39 lots, or one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service and fire protection for the subdivision. Extensions to the county water system shall be made in conformance with the policies and procedures set forth in the current Union County Water and Sewer Extension Policy as approved by the board of county commissioners and Town of Weddington.
- (b)** There may be times when the county cannot issue new water permits due to lack of available capacity. If a developer is denied permits for this reason, the town may allow the use of individual domestic wells to serve a proposed development provided that the developer still installs water lines to county specifications as initially approved for fire flow only. The developer shall be responsible for proving to the town that capacity is not available. A determination of what capacity is available and whether to allow the use of individual domestic wells shall lie within the sole discretion of the town.

- (c) The proposed water lines must still meet all the requirements of the Union County Water and Sewer Extension Policy, including providing fire flow protection to the development and taps and meter boxes for each developable lot. If the county and town approve these plans then the use of wells may be approved as an interim measure until such time as water capacity becomes available. The developer will be required to provide written proof that Union County will charge the lines for fire hydrant use.
- (d) As a condition of approval of the proposed development, the developer or property owner shall require these lots with domestic use wells connect to the county system at such time as the county indicates water capacity is available. Individual wells may be converted to irrigation use at the property owners expense provided such conversion is in conformance with the Union County Building Code and Union County Water and Sewer Specifications. The developer and/or property owner shall be responsible for any fees and charges from the county as a condition of connection to the county water system.
- (e) The use of community wells for domestic needs is discouraged and will only be allowed if the water system is built to Union County Water and Sewer Specifications. The system must be capable of meeting the water needs of the community including domestic, irrigation and fire flow requirements and an agreement exists with the county for: 1) the conditions under which the system becomes part of the county system; and 2) an arrangement is made with the county to tap into the county system for working fire hydrants according to the county specifications.

(Ord. No. O-2019-06, 10-14-2019)

Sec. 58-7. - Customary home occupations.

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this chapter for the district in which such uses are located:

- (1) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.
- (2) No accessory buildings or outside storage shall be used in connection with the home occupation.
- (3) Use of the dwelling for the home occupation shall be limited to 25 percent of the area of the principal building.
- (4) Only residents of the dwelling may be engaged in the home occupation.
- (5) No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those which are accessory to the service being provided.
- (6) No alterations to the exterior appearance of the residence or premises shall be made which changes the residential characteristics.
- (7) Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.

- (8) Chemical, mechanical, or electrical equipment that creates odor, light emission, noise, or interference with radio or television reception detectable outside of the dwelling shall be prohibited.
- (9) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.
- (10) One nonilluminated professional name plate, occupational sign, or business identification sign mounted flush to the dwelling unit and not more than 1½ square feet in area shall be allowed.

(Ord. No. 87-04-08, § 4.1, 4-8-1987)

ARTICLE XII. - LAND APPLICATION OF BIOSOLIDS

Sec. 58-373. - Intention.

In recognition of the federal and state laws and regulations regulating the land application of biosolids, it is the intent of the town to allow landowners and leaseholders the opportunity to use biosolids as fertilizer within its jurisdiction while protecting the health, safety and welfare of the citizens of the town. The land application of biosolids may create adverse effects on water quality in the town and may contribute to the endangerment of the physical and emotional health and welfare of the people, offend the senses, create public nuisances and reduce the quality of life. Therefore, special regulations are necessary to ensure that any adverse effects to the environment and existing and future development are mitigated.

Sec. 58-374. - Conditional use permit—Required.

Land application of biosolids within the town shall be permitted only in accordance with the terms of this article, and no such application shall occur except on agricultural property within the R-80, R-60, R-40 and RC-D zoning districts. Application of biosolids on any R-80, R-60, R-40 or R-CD zoned property shall require a conditional use permit issued in accordance with article III of this chapter.

Sec. 58-375. - Same—Application requirements.

All applications for a conditional use permit for the land application of biosolids shall include the following information, in addition to any other applicable information contained in this chapter:

- (1) A copy of a permit issued by the department of environment and natural resources, division of water quality, permitting the land application of biosolids within the town;
- (2) Copies of all groundwater and soil monitoring reports submitted to the department of environment and natural resources in connection with the permit for the land application of biosolids within the town;
- (3) A survey of the property to receive biosolids showing the setbacks and buffers required under the department of environment and natural resources permit;
- (4) Available data on pollutant concentrations in the biosolids proposed to be land applied;
- (5) The proposed volume of biosolids to be applied to the property per application under the department of environment and natural resources permit;
- (6) The estimated time of year the biosolids would be applied to the property;

Commented [KB2]: Revise to CZ zoning

- (7) The method of such application (i.e., spraying or injection), the form of biosolids to be used (i.e., liquid or dewatered), and the vector attraction reduction standards;
- (8) Whether the biosolids will subsequently be incorporated into the soil;
- (9) The proposed vegetative cover;
- (10) Whether the land application site is to be overseeded (i.e., Bermuda grass in the summer and rye grass in the winter) and whether the second crop is to be harvested;
- (11) A comprehensive spill control plan demonstrating methods by which a leak will be contained to prevent further contamination of soil and/or surface waters, the procedures to be used in notifying the appropriate emergency management offices of the spill, and the methods and procedures to be used to clean up the spill;
- (12) Verification that the plant available nitrogen (PAN) loading rate for the specified vegetative cover for the volume of biosolids to be applied to the site shall not be exceeded by all of the sources of PAN applied; and
- (13) Submission of a nutrient management plan demonstrating the methods by which the property owner will ensure that the soil is capable of absorbing the nutrients in the biosolids and preventing runoff.

Sec. 58-376. - Same—Issuance.

The town council shall review all applications for the land application of biosolids, and may grant a conditional use permit in its sole discretion.

- (1) The following conditions shall be included in all conditional use permits for the land application of biosolids:
 - a. The conditional use permit for the land application of biosolids shall extend no longer than 12 months from the date of issuance and may be renewed annually thereafter upon application to the town council in accordance with this article;
 - b. The conditional use permit holder shall comply with all applicable rules promulgated by any state or federal regulatory body, including, but not limited to, the department of environment and natural resources and the Environmental Protection Agency;
 - c. The conditional use permit holder shall comply with all applicable local, state and federal laws, rules and regulations pertaining to the land application of biosolids;
 - d. The conditional use permit holder shall provide the town with copies of all notices and/or other correspondence with the department of environment and natural resources and/or EPA regarding the land application of biosolids, including, but not limited to, notices of violation and groundwater and soil monitoring reports.
- (2) The town council may impose additional reasonable requirements in the conditional use permit for the land application of biosolids, including, but not limited to the following:
 - a. The posting of a bond in an amount to be determined by the town council to be used to remediate any surface and/or groundwater contamination resulting from the land application of biosolids;
 - b. Limitations on the method of land application of biosolids (i.e., soil injection and/or incorporation of the biosolids into the soil within six hours of land application);

- c. Limitations on the appropriate weather conditions for land application of biosolids;
- d. Requirements for berms, dikes, silt fences, diversions and/or terraces to prevent runoff, and/or
- e. Other nuisance control measures.

Sec. 58-377. - Notice to town.

Not later than ten days prior to the land application of biosolids, the landowner shall provide notice to the town. Such notice shall include the following:

- (1) The source of biosolids;
- (2) Date of land application;
- (3) Location of land application (i.e., site, field, or zone number);
- (4) Method of land application;
- (5) Anticipated weather conditions (i.e., sunny, cloudy, raining, etc.);
- (6) Soil conditions (i.e., dry, wet, frozen, etc.);
- (7) Type of crop or crops to be grown on field;
- (8) Volume of biosolids to be applied, in gallons per acre, dry tons per acre, or kilograms per hectare, if applicable; and
- (9) Volume of soil amendments (i.e., lime, gypsum, etc.) to be applied, in gallons per acre, dry tons per acre, or kilograms per hectare, if applicable.

Sec. 58-378. - Notice to adjacent property owners.

- (a) Not later than ten days prior to the land application of biosolids and at his own expense, the landowner or leaseholder shall provide notice to adjacent and abutting property owners within one mile of the lot upon which the biosolids will be applied. Such notice shall include the date of anticipated application and the location of the field to receive biosolids.
- (b) Upon application of biosolids to the land, the landowner or leaseholder shall post a notice on the property for 30 days thereafter stating that biosolids have been applied to the property and that public contact with the land is restricted.

Sec. 58-379. - Land application in conformance with federal, state and conditional use permit requirements.

All landowners and/or leaseholders shall strictly comply with the federal, state and local laws, regulations and permit requirements, as well as any conditional use permit requirements imposed by the town council pursuant to this chapter. Any variation from such laws, regulations or restrictions shall constitute a violation of this chapter.

Sec. 58-380. - Inspections.

The town council shall appoint an individual to oversee the land application of biosolids to ensure compliance with all federal, state and local laws, regulations and permit requirements. The landowner and/or leaseholder shall reimburse the town for all reasonable costs associated with such inspections.

Sec. 58-381. - Reporting.

Records of all activities involving the land application of biosolids in the town required under the department of environment and natural resources permit shall be forwarded to the town, including, but not limited to the following:

- (1) Soil analysis;
- (2) Surface and/or groundwater monitoring;
- (3) Toxicity characteristics leaching procedure (TCLP) analysis;
- (4) Inspection reports; and
- (5) Notices of violation.

Sec. 58-382. - Amortization.

All landowners and/or leaseholders currently applying biosolids within the residential conservation district in the town shall apply for a conditional use permit within 180 days from the enactment of the ordinance from which this chapter is derived.

Sec. 58-383. - Penalties.

(a) In lieu of the penalty in section 58-3, civil penalties for violation of the conditional use permit requirements for the land application of biosolids shall be in the following amounts:

- (1) First citation: \$500.00.
- (2) Second citation for same or similar violation: \$1,000.00.
- (3) Third and subsequent citations for same or similar violation: \$1,500.00.

(b) Civil citations in the above amounts may be issued for each day the same or similar violation continues until the prohibited activity is ceased or abated.

Secs. 58-384—58-410. - Reserved.

Sec. 58-88. - Additional review criteria.

The following review criteria for each of the following conditional uses shall be addressed by the town council:

- (1) *Day care centers and fraternal lodges.*
 - a. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
 - b. The residential character is reasonably safeguarded.
 - c. The proposed use will not create or seriously heighten the congestion on local streets and thoroughfares.
- (2) *Country clubs and schools.*
 - a. The proposed use will be compatible with the general characteristics of the area with respect to the location of structures, the location, design, and screening of parking and service areas, and the location, size and character of signs and streetscape.

- b. The proposed use will not create or seriously heighten the congestion on area thoroughfares.

(3) *Shopping centers.*

- a. Access to public streets and the adequacy of those streets to carry anticipated traffic.
- b. On-site circulation for both pedestrian and on-site and off-site vehicular traffic circulation patterns.
- c. Adequacy of existing community facilities such as water, sewer, and police protection.
- d. Relationship to and impacts upon adjoining properties and the adequacy of proposed measures to minimize any adverse impacts.

(4) *Office trailers.*

- a. That the proposed uses will be compatible with the general characteristic of the area with respect to the structure's location.
- b. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
- c. The use may be allowed for a maximum period of six months. Extensions of this period may be granted only after a public hearing is held in accordance with section 58-270.
- d. No office trailer shall be used for residential purposes.

(5) *Golf courses, churches.*

- a. Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
- b. The proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street parking areas.

(6) *Service stations, convenience stores.*

- a. On corner properties the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.
- b. Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential or institutional purposes, and driveways shall be 30 feet wide and shall be designated by curb, planted areas, and landscaping which shall not exceed two feet in height.
- c. No gasoline pump and/or canopy shall be located any closer than 80 feet from an existing street right-of-way.
- d. Outdoor lighting shall be permitted in compliance with section 58-17.
- e. Freestanding canopies may be placed over properly located pumps or pump island, provided that:
 - 1. They do not overhang the right-of-way of any street; and
 - 2. They are not used as a sign structure or as the sign base.

(7) *Essential services, classes II and III.*

- a. Where a building or structure is involved and it is proposed to be located in a residentially zoned district, it shall be screened or buffered from adjacent residential land.
- b. All outside storage areas are fenced and screened from adjacent residentially developed areas.
- c. The site is of adequate size for the sewage disposal system proposed and for the proposed use.

(8) *Public parks and recreational facilities.*

- a. Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
- b. The proposed use will be compatible with the general characteristics of the area with respect to the location of structures, including, but not limited to, signage, scoreboards, fencing, and facilities and the location, design and screening of off-street parking areas.
- c. Fencing, scoreboards, and structures in athletic fields may be utilized for customary signs and shall be directed solely towards users of the athletic field. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size and shall be permitted by the zoning administrator in the manner of other permanent, attached (on-structure) signs under section 58-148, or temporary signs under section 58-151, without amendment to the conditional use permit so long as compliance with all standards in this chapter are met.
- d. All structures including signage, scoreboards, fencing, and facilities shall comply with all standards prescribed in this chapter.
- e. Notwithstanding the provisions of this subsection, nothing in this section shall be construed to authorize or otherwise permit the erection of a billboard or sign that is independent of any fencing, scoreboard, backstop, announcer's booth, or concession stand existing within the athletic field.

(9) *Wholesale sales and distribution facilities.*

- a. Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impact.
- b. The proposed uses will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street service, loading and parking areas.

(10) *Amateur radio towers.* The applicant must provide documentation that the proposed tower complies with all applicable Federal Communication Commission regulations.

(11) *Agritourism.*

- a. The proposed use should generate a commercial source of revenue other than the traditional agricultural-related revenues.
- b. The application should include all agritourism-related activities.

(Ord. No. 87-04-08, § 6.10, 4-8-1987; Ord. No. O-2006-05, 1-9-2006)

Commented [KB3]: To be discussed

D-921 General Requirements Applicable to All Development
Sec. 58-8. - Screening and landscaping.

(a) Screening required by any of the following or by any other section of this chapter shall be provided in accordance with the following standards:

- (1) Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.
- (2) Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot, shall be as listed in the following table:

TABLE 58-8

ACRES	less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
WIDTH *	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
TREES (per 100 ft)	3;arrowrt;		4;arrowrt;		5;arrowrt;		5;arrowrt;		7;arrowrt;		8;arrowrt;		9								
SHRUBS (per 100 ft)	20;arrowrt;																				20

*The minimum width of a buffer may be reduced by an additional 20 percent if a fence or wall is constructed in accordance with these regulations.
 ft = feet

- (3) The width of the buffer may be reduced by 20 percent if a wall or fence is provided that meets the following standards:

- a. Any fence or wall shall be constructed in a durable fashion of brick, stone, other masonry materials, or wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the zoning administrator. No more than 25 percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property. A chainlink fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts;
 - b. Walls and fences shall be a minimum height of six feet;
- (4) Required trees and shrubs within the buffer shall meet the following standards:
- a. Forty percent of the required trees within the buffer shall be large mature trees;
 - b. All trees shall have a minimum caliper of two inches measured six inches above ground at the time of planting;
 - c. Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25 percent of the shrubs may vary from this standard. The allowed variations are as follows:
 - 1. Shrubs may be deciduous;
 - 2. Shrubs may be two feet tall when planted, provided an average height of three to four feet is expected as normal growth within four years; or
 - 3. Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight feet after four years.
 - d. Shrubs and trees shall be on the approved plant list in appendix I to chapter 58;
 - e. All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock published by the American Association of Nurserymen, and shall be free of disease; and
 - f. Twenty-five percent of all trees will be evergreen.
- (5) Landscaping buffers will have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect. Guidelines for the arrangement of plant material are illustrated in table 58-8.
- (6) In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the zoning administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the zoning administrator may determine whether it is acceptable.
- (7) Berms may be used as screening, provided such berms are at least six feet in height with a maximum slope of 4:1, as measured from the exterior property line.
- a. Berms shall be stabilized to prevent erosion and landscaped; and
 - b. If a berm is constructed, shrubs are required but the number may be reduced by 25 percent. However, constructing a berm does not modify the number of trees required.
- (8) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping

maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:

a. The removal of any tree larger than six inches in caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the zoning administrator;

b. No utility easements shall run longitudinally within a buffer yard.

(9) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior in the buffer yard.

(10) In no case shall the plant species of *Pueraria lobata* (Kudzu) be used for planting with the buffer.

(11) The developer shall be required to replace any plant material which has not remained viable or has failed to stabilize the soil through two consecutive growing seasons.

(12) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.

(13) If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in table 58-8. This additional buffer width can be added into the calculated lot area.

(14) If aboveground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located as follows:

a. *Overhead.* Trees next to power lines shall be planted using the table below. The measurement shall be made from the nearest edge of the tree trunk.

Distance from power line	Tree specification
40 feet or greater	Any tree listed in appendix I
18 feet or greater	Small maturing trees listed in appendix I. However, except trees as marked with an asterisk (*) shall not be located within the utility right-of-way.
0—18 feet	Shrubs with a mature height of less than 20 feet.

b. *Underground.* Roots planted near underground utility or power lines may be damaged in the event that repairs are required. Utmost care shall be taken when planting new trees and when carrying out any excavation work near trees.

(b) Business and commercial uses adjacent to residential zoning shall provide screening to materially screen the subject use from the view of the adjoining residential zoning district.

(c) Off-street parking and loading facilities and dumpsters adjacent to residential zoning or located in a residential district shall provide screening.

- (d) For open-air storage, or an unenclosed structure within 100 feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business or certain conditional uses, screening shall be provided. Such screening may be located anywhere on the subject property, provided the storage is effectively screened.
- (e) The screening provisions of this section shall be minimum screening standards required for the issuance of a conditional use permit as provided in article III of this chapter; provided, however, that the town council may impose additional reasonable screening requirements as a condition for awarding a conditional use permit as the town council considers necessary to protect the public health, safety and welfare in accordance with the purpose and intent of this chapter.
- (f) In cases where screening is required by this chapter and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the zoning administrator is hereby empowered to accept the existing features as meeting the general requirements. Such decision shall be based on the spirit and intent of this section. If, at any time after existing topographical features or size of the lot are thereafter altered so as to render them inadequate as screening, the owner of the land shall be required to provide screening as described in this section to achieve the required screen. The vacancy or nonuse of adjacent property shall not negate the necessity for installation of screening.
- (g) Subsections (a)—(f) of this section shall be construed to require screening alongside property lines and/or rear property lines adjacent to residential zoning, but in no case shall screening be required along a public street, except as provided in subsections (c) and (d) of this section.
- (h) Uses permitted within the business districts shall provide street trees as landscaping along the front property line, along the side street property line on a corner lot, and at the rear property line when the rear property line lies directly across the street from a residential district. Such trees shall be installed in accordance with the following standards:
- (1) Such trees may be evergreen or deciduous.
 - (2) Such trees shall be a minimum of four feet high at planting.
 - (3) The maximum spacing between trees shall be 30 feet.
- (i) Such trees shall when possible be located behind the right-of-way of the street. When it is necessary to locate landscaping required by this section on the right-of-way of a state-maintained road, an encroachment agreement shall be obtained from the state department of transportation. Consideration should be given to the alignment of trees or shrubs installed on an adjoining lot and when possible the alignment should be continued along the street. Encroachment into the sight distance area as defined in section 58-12 shall be allowed subject to the requirement that landscaping installed within a sight distance shall be set back as far as is practicable from the intersection of the two streets forming the intersection and shall not be of a height to interfere with sight distance.
- (j) In cases where existing trees on a lot or lots are located within the required setback, and where existing trees would inhibit or restrict the growth of street trees required by this section, the zoning administrator may authorize that low growing shrubbery be installed in lieu of trees. Such shrubs shall adhere to the locational requirements stated in subsections (g) and (h) of this section.
- (k) Essential services, classes I, II, III, IV, shall be naturally screened on all sides in compliance with the screening and landscaping provisions of this section.

(Ord. No. 87-04-08, § 4.2, 4-8-1987; Ord. No. O-2017-12, 10-9-2017)

Editor's note— Appendix I is set out at the end of this chapter.

Sec. 58-9. - Fences and walls permitted within yard areas and at subdivision entrances.

Unless otherwise noted in this chapter, fences or walls are permitted in the various districts subject to the following regulations:

(1) *Residential districts.*

- a. Within the required rear and side yard areas, the maximum height of a fence (except court perimeter fences) or wall shall be eight feet.
- b. Within the required front yard area, the maximum height of a fence or wall shall be five feet.
- c. No portion on any fence or wall may be located within the established right-of-way of any publicly maintained road unless an encroachment agreement has first been obtained from the governing body maintaining said road.
- d. Subdivision entry and perimeter walls and entry monuments are not required to be of any specific height or style, but are subject to review and approval of the planning board prior to the start of construction.

(2) *Business districts.*

- a. Within the required rear and side yard areas, the maximum height of a fence or wall shall be eight feet.
- b. Within the required front yard area, the maximum height of a fence shall be five feet.

(Ord. No. 87-04-08, § 4.3, 4-8-1987; Ord. No. O-2013-01, 2-11-2013)

Sec. 58-10. - Lot to abut a public street; exceptions.

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions:

- (1) A single-family dwelling or mobile home may be constructed on a lot which does not abut a street, provided such lot existed prior to the date the ordinance from which this chapter is derived became effective and provided such lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. Said easement may also be used where needed for the installation and maintenance of utility facilities.
- (2) Easement lots created pursuant to subsection 46-76(a).

(Ord. No. 87-04-08, § 4.4, 4-8-1987)

Sec. 58-11. - One principal building permitted on single lot.

(a) *Single-family residential district; duplex district.* In any single-family residential district, one principal single-family dwelling unit or one mobile home and one accessory family dwelling unit and accessory structures shall be permitted on a single lot which meets at least the minimum requirements of this chapter. Accessory family dwelling units may not be permitted in the two-family district (R40-D).

(b) *Business district.* In any business district, a detached building or a group of detached buildings shall be either permitted as a matter of right or may be authorized by a conditional use permit, pursuant to article III of this chapter, on a single lot which meets at least the minimum requirements of this chapter.

(Ord. No. 87-04-08, § 4.5, 4-8-1987; Ord. No. O-2010-05, 4-12-2010)

Sec. 58-12. - Visibility at intersections.

No structures, buildings, or other improvements over 3½ feet high will be permitted within ten feet of the right-of-way of an intersection, except as provided in subsection 58-8(g).

(Ord. No. 87-04-08, § 4.6, 4-8-1987)

Sec. 58-13. - Temporary structures and uses.

Temporary structures and uses, when in compliance with all applicable provisions of this chapter and all ordinances of the town, shall be approved by the zoning administrator, who shall issue a permit for such approval. The following temporary structures and uses shall be permitted:

- (1) In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his family may occupy a mobile home on the property. The permit shall be issued for a six-month period and may be renewed by the town council, provided construction has proceeded in a diligent manner.
- (2) Mobile homes, construction trailers and temporary buildings not for residential purposes, when used by a contractor for field offices and storage during the building of structures on the same site, are permitted. The permit shall be issued for a one-year period and may be renewed by the zoning administrator on an annual basis, provided the construction has proceeded in a diligent manner. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to renew the permit may result in enforcement and penalties described in section 58-3.
- (3) Any use of a temporary nature (i.e., less than 45 days in duration and held no more than four times per year at any particular location) which would not otherwise be permitted in a particular zoning district and which will materially affect normal activities (i.e., increased traffic, noise, etc.) may be issued a temporary use permit as herein provided. The applicant shall complete and submit an application and a fee, in accordance with a fee schedule adopted by the town council.
 - a. The zoning administrator may grant a temporary use permit for the following temporary uses: Sales for civic, charitable and nonprofit organizations, i.e., Christmas tree sales. The permit shall be valid for a specified period only, not to exceed 45 days in duration.
 - b. The planning board may issue a temporary use permit for all other temporary uses including public events such as festivals, concerts, carnivals, circuses, etc., only after a public hearing has been conducted as follows:

1. Notices shall be sent by the town by first class mail to the applicant and to owners of all contiguous pieces of property and to all other property owners whose properties lie within 200 feet of any portion of the property in question at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur. The applicant shall provide the town with a list of all affected property owners.
 2. Notice shall also be posted by the town clerk in a conspicuous location at the town hall at least ten days prior to the public hearing. Said notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.
 3. A sign shall also be placed by the town in a conspicuous location on the subject properties indicating the nature of the public hearing and date, time and place at which it is to occur. Said sign shall be placed on the properties in question at least ten days prior to the public hearing.
 4. Before issuing any temporary use permit, the zoning administrator and/or planning board shall make the following determinations:
 - (i) That the proposed temporary use will not materially endanger the public health, welfare and safety;
 - (ii) That the proposed temporary use will not have a substantial negative effect on adjoining properties;
 - (iii) That the proposed temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit; and
 - (iv) The proposed temporary use is held no more than four times per year at any particular location.

In addition, the planning board may authorize conditions regarding duration of the use, hours of operation, signage, lighting, temporary structures, etc., and such conditions shall be made part of the temporary use permit issued. Violations of such conditions shall be considered a violation of this chapter.
 - c. The decision of the planning board may be appealed by the applicant to the town council. The decision of the zoning administrator may be appealed by the applicant to the board of adjustment pursuant to article VIII of this chapter. A written application for town council review shall be submitted to the zoning administrator within seven days of the planning board decision.
- (4) Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted only with a permit granted pursuant to this section. The zoning administrator shall issue such permit for a period of one year. An extension of up to one additional year may be granted by the zoning administrator, provided that the development is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Following this initial extension period, the permit may be extended only within the discretion of the town council and only for a period of time the town council deems appropriate, provided the subdivision is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to renew the permit may result in enforcement and penalties

described in section 58-3. After the developer sells all lots within the subdivision, or after any permit granted under this section expires, whichever occurs first, the temporary structures shall be removed, and any permanent structures temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district. After a permit issued under this section expires, no other permits under this section may be issued for that same subdivision unless approved by the town council. For purposes of this section, having a sales office within a subdivision, by itself, shall not constitute "actively marketing" the subdivision.

(Ord. No. 87-04-08, § 4.7, 4-8-1987; Ord. No. O-2003-18, 10-13-2003; Ord. No. O-2003-08, 3-10-2003; Ord. No. O-2007-08, 9-10-2007; Ord. No. O-2010-12, 8-9-2010; Ord. No. O-2015-14, 11-9-2015; Ord. No. O-2015-14, 11-9-2015)

Sec. 58-14. - Temporary structures and uses requiring a temporary conditional use permit.

- (a) In either the R-CD, R-40, R-60 or R-80 residential districts, a temporary conditional use permit may be granted by the town council for not more than one mobile home to be placed on a residential lot as an accessory use when conditions exist of the need to care for an immediate family member due to medical reasons. The conditional use permit shall be granted only after the town council has made all of the following findings:
- (1) That the mobile home is an accessory use to the principal residential use;
 - (2) That the mobile home will be placed on the lot on a temporary basis;
 - (3) That there exists a medically related need for the proximate care of an immediate family member (this finding must be substantiated by a certification of need from a medical doctor and other evidence the town council may desire);
 - (4) That the person responsible for providing the care will live in either the principal dwelling or the mobile home and that the person needing the care shall live in the structure not occupied by the person providing the care;
 - (5) That there exist sufficient reasons justifying separate quarters and such reasons shall be limited to either contagious disease, serious illness, or lack of adequate space within the principal dwelling;
 - (6) That the person in need of care is an immediate family member of the person to be responsible for providing care;
 - (7) That the mobile home will have adequate access to a well and septic tank as verified by permits from the county health department;
 - (8) That the mobile home will be placed in the rear yard and will be no closer than 20 feet from any property line or, if it is not feasible to locate the mobile home in the rear yard, that the mobile home will be located in the nonrequired side yard behind the building line of the principal dwelling; and
 - (9) That the granting of the CUP will not materially endanger the public health, safety and welfare.
- (b) In addition to the requirements of subsection (a) of this section, the following shall apply:
- (1) The CUP shall be valid for one year after the issuance or for shorter periods as specified by the town council, however, no such CUP shall be valid beyond 30 days after any of the reasons justifying the CUP cease to exist.

(2) The CUP may be
by the town cou

- (4) Other than barns or farm-related structures, the total combined square footage of all accessory structures (including above ground swimming pools) on any parcel less than six acres shall not exceed two-thirds of the footprint of the principal building. On lots 6 acres or greater, the total combined footprints of all principal and accessory structures (including above ground swimming pools) shall not exceed 15 percent of the gross lot area.
- (5) Roofed accessory uses physically attached or connected to the principal building shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building.
- (6) A swimming pool shall be considered an accessory use. A swimming pool can be located in the rear yard on all residential properties, or in the side yard provided the principal structure has a minimum 200-foot front setback and the pool will have a minimum 150-foot side setback. In all other situations, it will be subject to a conditional use approval as provided in article III of this chapter.
- (7) Occupancy of a travel trailer, recreational vehicle (RV), or licensed motor vehicle as an accessory family dwelling shall be permitted for no more than 30 total days per calendar year.
- (8) Accessory family dwellings: An incidental structure or an incidental area within a primary structure that is capable of being used as a separate dwelling and that is generally occupied and used by a different person(s) than the person(s) that generally occupies and uses the property's primary dwelling. Such a separate structure or area shall be considered an accessory family dwelling whether it is detached from the primary dwelling, attached to the primary dwelling, or partially or completely contained within the primary dwelling.

When allowed, accessory family dwellings shall be subject to the following additional requirements:

- a. Accessory family dwellings shall comply with all applicable provisions of the Weddington Code of Ordinances.
- b. At least one additional off-street parking space shall be provided for the use of those occupying the accessory family dwelling unless the zoning administrator determines that sufficient off-street parking already exists to accommodate both the property's primary dwelling and the accessory family dwelling.
- c. An accessory family dwelling shall be allowed only on lots that meet the minimum lot area requirement of the applicable zoning district.
- d. Only one accessory family dwelling shall be allowed per lot.
- e. The accessory family dwelling shall meet all setback requirements applicable to principal structures in the zoning district.
- f. The heated floor area of the accessory family dwelling shall not exceed 30 percent of the gross floor area of the primary dwelling.

Commentary: Examples of accessory dwelling square footage are:

A 1,333 square foot primary dwelling is needed for a 400 square foot accessory family dwelling. (30 percent of 1,333 = 400)

- g. The property including the accessory family dwelling shall retain a single-family appearance from the street. By example only and not for purposes of limitation, the accessory family

dwelling shall not have its own separate mailbox, and it must share driveway access with the primary dwelling.

(Ord. No. 87-04-08, § 4.9, 4-8-1987; Ord. No. O-2005-09, 12-12-2005; Ord. No. O-2007-09, 9-10-2007; Ord. No. O-2010-05, 4-12-2010; Ord. No. O-2017-06, 2-13-2017)

Sec. 58-17. - Outdoor lighting.

Outdoor lighting shall be so located as not to reflect on adjacent property or on public streets in such manner as to adversely affect the enjoyment of adjacent property or endanger the motorist traveling such streets. All outdoor lighting shall conform to the town lighting regulations.

(Ord. No. 87-04-08, § 4.10, 4-8-1987; Ord. No. O-2003-14, 7-14-2003)

Sec. 58-18. - Vibration.

No use in any district may operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

Commented [KB5]: Delete and perhaps move to stand alone nuisance

ARTICLE IV. - LIGHTING

Sec. 14-81. - Purpose.

The purpose of this article is to improve nighttime public safety, utility, and security by restricting the nighttime emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the town, and can restrict persons from the peaceful enjoyment of their property. Higher energy use results in increased costs for everyone. This article is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

Sec. 14-82. - 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:

Average to minimum means the ratio of average footcandles to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Backlight, uplight, and glare (BUG) rating. A luminaire classification system that classifies backlight (B), uplight (U), and glare (G) ratings to evaluate luminaire optical performance related to light trespass, sky glow, and high angle brightness control.

Candlepower means luminous intensity. The term "candlepower" is normally associated with a directional type fixture such as a floodlight.

Direct light means light emitted directly from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire. *Fixture* means the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Floodlight or spotlight means any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction with a wide or narrow beam.

Footcandle means the amount of light falling on a surface, measured or calculated. It can be quantified as one lumen per square foot.

Footcandles, average, means the average of a number of points of footcandle calculations or footcandle readings in a given area. They could be initial or maintained.

Footcandles, average maintained, means the average of a number of points of footcandle calculations or footcandle readings in a given area which have been adjusted to account for maintenance factor, which includes luminaire dirt depreciation (LDD) and lamp lumen depreciation (LLD).

Footcandles, initial, means footcandles that are calculated with no adjustment for dirt build-up in the fixture or lamp lumen depreciation. Initial footcandles should be measured when a lighting system is new and after 100 hours of lamp burn-in time. Car dealerships are often designed using initial footcandles.

Footcandles, maintained, means footcandles that are calculated with an adjustment for a maintenance factor to include dirt buildup in the luminaire (fixture) and lamp lumen depreciation. The system is, in effect, oversized initially so the gradual decrease in light output reaches the design foot-candle level at a predetermined maintenance interval.

Full cutoff (fully shielded lights) means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the 90-degree horizontal plane, as certified by a photometric test report.

Glare means light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see or, in extreme cases, causing momentary blindness.

Indirect light means direct light that has been reflected or that has scattered off of other surfaces.

Lamp means the component of a luminaire that produces the actual light.

Light trespass means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen output, initial, means ratings of a lamp as listed in a lamp catalog.

Lumens means the total quantity of light emitted from a light source, or a unit of luminous flux. One footcandle is one lumen per square foot. For the purpose of this article, the lumen output values shall be the initial lumen output ratings of a lamp.

Luminaire means a complete lighting system and includes a lamp or lamps and a fixture, housing, reflector, refractor, etc.

Maximum to minimum means the ratio of the maximum footcandle point calculation or reading to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained

footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Maximum means the maximum footcandle point calculation or reading in a given area. The maximum is generally maintained footcandles but could be initial.

Minimum means the minimum footcandle point calculation or reading in a given area. The minimum is generally maintained footcandles but could be initial.

Mounting height of luminaire means the vertical distance from the ground directly below the centerline of the luminaire to the center of the light source (lamp) in the luminaire.

Outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

Pre-existing luminaires means luminaires not conforming to this article that were in place at the time the ordinance from which this article is derived was adopted.

Temporary outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

Sec. 14-83. - Regulations.

All public and private outdoor lighting installed in the town shall be in conformance with the requirements established by this article. The provisions of this article are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical and other codes must be observed. In the event of a conflict between the requirements of this article and other requirements, the more stringent requirement shall apply.

Sec. 14-84. - Control of glare, light trespass and light levels.

- (a) *Glare control.* All fixtures other than floods shall be fully shielded and shall be classified as full cutoff, as classified by the IESNA. This shall mean that no light is to be emitted out of the fixture above the 90 degree horizontal plane. Floodlights are to be equipped with shields and aimed so as to direct the light onto the area to be lighted.
- (b) *Light trespass.* The horizontal illuminance on the ground shall not exceed 0.5 maintained footcandles at the property line.
- (c) *Light levels.* The following table summarizes the recommended light levels for general parking and pedestrian areas.

LIGHT LEVELS FOR GENERAL OUTDOOR

Use/Task	Average Illuminance (Footcandles)	Uniformity Ratio (Average to Minimum)

(a)	Local Street Classification (Residential/Low Pedestrian Activity)	0.4	6:1
(b)	Collector Street Classification (Commercial/Medium Pedestrian Activity)	0.9	4:1
(c)	Parking (residential, multifamily)		
	• Low vehicular/pedestrian activity	0.2	6:1
	• Medium vehicular/pedestrian activity	0.6	6:1
(d)	Parking (industrial/commercial/institutional/municipal)		
	• High activity, i.e., hospitals, regional shopping centers/fast-food facilities, major athletic/civic cultural events	0.9	4:1
	• Medium activity, i.e., community shopping, office parks, commuter lots, cultural/civic/recreational events	0.7	4:1
	• Low activity, i.e., neighborhood shopping, industrial employee parking, schools, church parking	0.4	4:1
(e)	Walkways and bikeways		
	• Low density residential (2 or less dwellings/acre)	0.3	6:1
	• Medium density residential (more than 2 dwellings/acre)	0.4	4:1
(f)	Building entrances	5.0	2:1

Notes:

1. Illumination levels are horizontal on the task, e.g. pavement or area surface.
2. Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. For example, for commercial parking high activity, the average footcandles shall not be in excess of 3.6 (0.9 x4).
3. Any low or medium activity can be reclassified upward with town approval when appropriate.

4. Lighting levels may be less than the listed footcandles.

Sources: IESNA RP-33-14, RP-8-18, Lighting Handbook 10th edition

- (d) *Gas station/convenience store lighting.* Lighting levels for convenience stores, gas station and other similar locations shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to such businesses. Signs allowed under article V of chapter 58 shall be used for that purpose. Facilities having canopies shall be restricted to low-profile surface mounted or recessed fixtures, including lenses, mounted flush with the bottom of the canopy. The design light level shall be 20 footcandles average maintained, at ground level at the gas pump island area. Canopy fixtures shall have lumen packages of 10,000 (maximum), 4000K; and meet the glare requirements for G1 BUG Rating. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.
- (e) *Sports field lighting.* Lighting for sports fields is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. Higher lighting levels for tournament or high league play are sometimes required and must be approved by the town prior to construction. All sports fields must meet the following minimum standards:
- (1) Fixtures must not exceed 80 feet in mounting height, including bases and/or other mounting structures.
 - (2) Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
 - (3) Fixtures must be designed with a sharp cutoff and aimed so that their light beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.
 - (4) Lighting shall be extinguished no later than one hour after the event ends.
- (f) *Signs.*
- (1) Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign facade and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads or properties.
 - (2) Lighting fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads or properties.
 - (3) Internally illuminated signs are prohibited.
 - (4) To the extent practicable, lighting fixtures shall be directed downward rather than upward.
 - (5) This article does not regulate outdoor signs. Such regulations have been adopted and can be found in article V of chapter 58.
- (g) *Building facades, ornamental and general use lighting.* All ornamental and general use fixtures attached to buildings or structures shall be located, aimed, and shielded so that direct illumination is focused exclusively on the building facade or the ground immediately below the fixture. Additionally, these fixtures shall also meet the following standards:
- (1) All wall-mounted fixtures, wall packs, porch lights, ceiling mounted, and pendant style fixtures shall be full cutoff fixtures.

Exception: The fixture delivers a maximum of 1,000 lumens output (equivalent to a 60-watt incandescent bulb) and utilizes a translucent lens covering the light source.

- (2) All recessed ceiling fixtures incorporating a lens cover shall be restricted to lenses that are either recessed or flush with the ceiling.
 - (3) Lamps providing minimum exit discharge lighting as required by the NC Building Codes shall be shielded unless otherwise exempt.
 - (4) Dual purpose fixtures (general use and exit discharge) fitted with battery back-up for emergency use shall be full cut-off. Those fixtures that come on only during an emergency or power outage are exempt.
 - (5) All LED lighting attached to buildings or structures shall have a maximum BUG rating of B2, U0, G2, unless otherwise exempted or excepted.
- (h) *Softscape/holiday/festive lighting.* All softscape (landscape) lighting shall be aimed and shielded, if necessary, so as not to cause a hazard to a motorist or pedestrian. All fixtures shall be less than 50 watts. All holiday lighting shall be temporary in nature and shall be used only during the holiday or festive celebration period.
- (i) *Security lighting.* All dusk-to-dawn security lights (aka: barn light, yard light, power-arm refractor) shall be full cutoff fixtures with a maximum rating of 9,500 fixture lumens (6,000 fixture lumens in residential zoning districts) with a mounting height not to exceed 25 feet.
- (1) All new dusk-to-dawn utility type fixtures must be equipped with a reflector shield that provides a full cutoff light distribution as defined in Sec. 14-82 of this article. An approved alternative is to install a different type of fixture that has a full cutoff light distribution with a maximum rating of 9,500 lumens.
 - (2) All new LED dusk-to-dawn utility type fixtures shall comply with the LED standards listed in subsection (k) below.
- (j) All LED lighting shall meet the B-U-G ratings noted in the applicable subsections and comply with all other applicable requirements, and shall also meet the following standards:
- (1) The LED correlated color temperature (CCT) shall not exceed 4,000K (Kelvin degrees).
 - (2) The maximum number of fixture lumens shall not exceed 6,500 in residential districts or 20,000 lumens in non-residential districts or for legal non-residential uses in residential districts, unless otherwise allowed or exempted.
- (k) *Street lighting.*
- (1) Existing non-LED streetlights may be replaced with similar non-LED fixtures where warranted by NCDOT and approved by the administrator.
 - (2) General design standards.
 - a. *Spacing.* In areas where post-mounted fixtures (18-foot mounting height or less) are installed, the spacing of posts should be adjusted to the particular fixtures used and as approved by the director of public works or his/her designee. IESNA Recommended Practice 8 (Roadway Lighting) should be used as a guide for street lighting design.
 - b. *Alignment.* Street lighting on newly constructed streets shall be alternately staggered on each side of the street wherever possible.

c. *Luminance*, street lighting fixtures shall meet the following lumen ratings:

1. In residential districts—No greater than 6,500 fixture lumens, with exceptions noted in subsection (5) below.
2. In non-residential districts—No greater than 20,000 fixture lumens, with exceptions noted in subsection (5) below.

d. *Mounting support*. It is preferred that existing poles and associated mounting hardware be used to mount streetlights. However, decorative poles and associated mounting hardware may be used upon agreement between the requestor and the town.

e. *Variations in land elevations*. Where land elevations vary and cause the street lighting poles to be installed higher or lower than adjacent roads or property, thus causing offensive light trespass and/or glare, the administrator may require shields to be installed on the fixtures at the time of the installation or afterwards. If shields do not correct the problem sufficiently, the administrator may require that one or more of the following measures be implemented to mitigate the conflict to the maximum extent possible:

1. Change the aiming of offending fixtures,
2. Change the location and/or mounting height or the offending poles,
3. Change the light distribution pattern of the offending fixtures, or
4. Remove the offending poles and fixtures from the site.

(3) LED street lighting shall comply with the standards in subsection (k) and shall have a maximum BUG rating of B3, U3, G3 on non-residential streets, and a maximum of B2, U1, G2 on residential streets.

Exceptions:

a. Use of LED streetlights in residential areas over 6,500 and up to 8,200 fixture lumens are allowed at intersections and safety sensitive locations, as deemed necessary by the administrator.

Sec. 14-85. - Exceptions and exemptions to general design standards.

(a) The design for an area may suggest the use of parking lot lighting, area lighting and roadway fixtures of a particular period or upscale architectural style such as the nostalgic lantern as either alternatives or supplements to the lighting described above. These decorative post-mounted fixtures are generally classified as noncutoff by the IESNA and are acceptable. The maximum lumens generated from each fixture shall not exceed 6,500 initial lumens, and each fixture must be equipped with a solid top to reduce the amount of light going into the sky. A BUG rating not exceeding B3, U3, G3 is acceptable for this application upon approval of the administrator.

(1) The adopted town standard is Streetworks model ACN-080-LED-E-U-33-2-4-2 with 7030 option for 3000K, or in Type V distribution (substitute 55 in place of 33), as manufactured by Eaton. Coordinate with the administrator if streetlights are provided through the local utility.

(b) All temporary emergency lighting needed by the sheriff or fire departments or other emergency services, as well as all vehicular luminaries, shall be exempt from the requirements of this article.

- (c) All hazard warning luminaries required by federal regulatory agencies are exempt from the requirements of this article, except that all luminaries must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- (d) Motion detector security lights which are normally "off" and which are activated for less than five minutes occasionally when motion is detected are exempt from this article.
- (e) In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two narrow-beam spotlights which confines the illumination to the object of interest.

Sec. 14-86. - Prohibitions.

- (a) The operation of searchlights, lasers or other high-intensity beams is prohibited.
- (b) The use of flashing, rotating or pulsating lighting devices is prohibited.

Sec. 14-87. - Temporary outdoor lighting.

- (a) Any temporary outdoor lighting that conforms to the requirements of this article shall be allowed. Any temporary lighting as proposed through a temporary use permit shall be reviewed and approved by the planning board when considering said permit. Any other nonconforming temporary outdoor lighting may be permitted by the town council after considering:
 - (1) The public and/or private benefits that will result from the temporary lighting;
 - (2) Any annoyance or safety problems that may result from the use of the temporary lighting; and
 - (3) The duration of the temporary nonconforming lighting.
- (b) The applicant shall submit a detailed description of the proposed temporary nonconforming lighting request to the town council in accordance with all applicable submittal procedures, who shall consider the request at the next regularly scheduled meeting. Prior notice of the meeting shall be provided to the applicant. The town council shall render its decision on the temporary lighting request and notify the applicant in writing within two weeks from the date of its decision. A failure of the town council to act on a request shall constitute a denial of the request.

Sec. 14-88. - Grandfather provision for preexisting luminaries.

- (a) All existing lighting installed on or before the adoption of the ordinance from which this article is derived is "grandfathered" and therefore is acceptable as is and is not required to be changed.
- (b) Luminaries that undergo a change in light source, wattage or fixture housing must be changed to come within compliance of this article.

(Ord. No. O-2000-01, art. 3, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-89. - Authorization for installation of public area and roadway lighting.

- (a) Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved by the town council.
- (b) The administrator or his designee shall evaluate and approve requests for additions, removals or other changes to street lighting and respond to the requestor within 30 days.

Sec. 14-90. - Construction.

(a) *Submission contents.*

- (1) Any applicant seeking lighting approval as required shall submit the information required by this subsection. Where applicable, this information shall be submitted as part of a final subdivision plat, as set forth in chapter 46. The submission shall contain, but not be limited to:
 - a. Plans indicating the location on the premises, a point-by-point footcandle diagram and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.
 - b. Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices. This may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
 - c. Photometric data, such as that furnished by manufacturers, or similar, showing the angle of cutoff or light emissions.
 - (2) The electric utilities that serve the town, given the ongoing high volume of streetlights and other outdoor lighting provided by these utilities, are granted a waiver to the procedures described in the appropriate section of this Code or ordinance of the town regarding regulation of utility companies.
 - (3) The town will require each electric utility company to comply as follows:
 - a. A materials specification book for the electric utility fixtures, lamps, supports, reflectors, poles, raised foundations and other devices will be supplied by the electric utility to the town with a table of contents showing the identification codes and page numbers for the electric utility's equipment available to customers. All lighting equipment in this book must be approved by the town as well as all subsequent new lighting equipment that is proposed to be added by the electric utility. Each project will not require individual approval provided the approved equipment in the book is utilized. *Note:* The use of this book will significantly reduce the paperwork required from the utility lighting supplier.
 - b. A point-by-point footcandle array in a printout format indicating the location, aiming and type of fixtures shall be provided for each project.
 - c. If at some future date, if said project is found to be out of compliance, corrections will be made by the electric utility to allow the project to come under compliance at the utility's expense.
- (b) *Additional submission.* The required plans, as herein called for, shall be sufficiently complete to enable the zoning administrator, or other such person assigned to administer the provisions of this article by the town council, to determine compliance with this article. The zoning administrator may require the applicant to submit additional information, on a case-by-case basis, to determine compliance with this article. Such information may include certified reports of tests conducted by a recognized testing laboratory.
- (c) *Subdivision plat certification.* If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this article will be adhered to.
- (d) *Lamp or fixture substitution.* Should any outdoor light fixture, or the type of light source therein, be changed after the final plat approval, a change request must be submitted to the zoning

administrator for approval, together with adequate information to assure compliance with this article, which must be received prior to substitution.

- (e) *Technical assistance.* If the town requires technical assistance in determining whether plans and lighting equipment submitted for approval meet the requirements of this article, the cost for a lighting consultant's technical services will be paid to the town by the applicant requesting approval of the installation before final plat approval.

Sec. 14-91. - Notification requirements.

The town zoning permit shall include a statement asking whether the planned project will include any outdoor lighting.

Sec. 14-92. - Violations, legal actions and penalties.

- (a) *Violation.* It shall be a civil infraction for any person to violate any of the provisions of this article. Each and every day during which the violation continues shall constitute a separate offense.
- (b) *Violations and legal actions.* If, after investigation, the zoning administrator finds that any provision of this article is being violated, he shall give notice, by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises demanding that violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within said 30-day period, the zoning administrator may institute actions and proceedings, to enjoin, restrain or abate any violations of this article and to collect any penalties associated with such violations.
- (c) *Penalties.* A violation of this article shall be punishable in accordance with section 58-3.

ARTICLE V. - ARCHITECTURAL DESIGN STANDARDS

Sec. 14-101. - Purpose and intent.

The purpose of establishing supplementary requirements for development is to ensure that the physical characteristics of proposed development are compatible when considered within the context of the surrounding areas and to preserve the unique visual character of the Town of Weddington. These requirements strike a balance between creativity and innovation on one hand while avoiding obtrusive, incongruous structures on the other. The Town of Weddington strongly encourages architectural styles that build upon and promote the existing historic character of the town and supports the view that inspiring, well-maintained, and harmonious development is in the best economic development interests of all residents and businesses.

Sec. 14-102. - Applicability.

The standards described or referenced in this section shall apply to all nonresidential development, including renovations, remodelings, face lifts, repainting and additions to existing structures within the zoning jurisdiction of the Town of Weddington. All such projects that require a conditional use permit, a modification to a CUP, or conditional zoning shall be required to meet these standards.

Sec. 14-103. - General compatibility requirement.

All development subject to this section shall be compatible with the character of the town by using a design that is complementary to existing town architectural styles, designs and forms. Compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and the use of building materials that have color, shades and textures similar to those existing in the immediate area of the proposed development.

Sec. 14-104. - Modification of standards.

The zoning administrator, his designee, or the design review board may make modifications to the following standards upon the written request of the applicant if the standard(s) in question conflicts with other requirements by law, as long as the proposal is in compliance with the purpose and intent of these standards and general compatibility requirements given above. If the applicant and zoning administrator, his designee, or the design review board cannot come to an agreement the proposal shall be submitted to the planning board for recommendation at their next meeting and to the town council for final decision.

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Sec. 14-105. - Conflicting requirements.

Where these requirements conflict with each other or with any requirement of the zoning ordinance or subdivision regulations, the stricter, more visually compatible or more appropriate standards shall apply as determined by the zoning administrator. Any modifications necessary shall be made with the approval of the zoning administrator, his designee, or the design review board.

Sec. 14-106. - Overall design and appearance standards.

(a) *Applicability.* All nonresidential development within the zoning jurisdiction of the Town of Weddington shall meet these overall design and appearance standards.

(b) *Basic building design.*

- (1) *Scale:* Building design shall emphasize a human scale at ground level, at entryways and along street frontages through the creative use of such features as windows, doors, columns, canopies, arcades, awnings, decks and porches.
- (2) *Avoiding monotony:* Monotony of design in single or multiple building projects shall be avoided by varying detail, form and siting to the maximum extent practicable, within the standards set forth in these requirements.
- (3) *Unify individual storefronts:* If several storefronts are located in one building, the individual storefronts shall be unified in all exterior design elements, such as mass, window and door placement, color, materials and signage while, at the same time, varying the look and providing distinctiveness from storefront to storefront.

(c) *Architectural features.*

- (1) *Roofs:* Roof lines shall be varied to reduce the scale of structures and add visual interest including gables, windows, dormers where possible.
- (2) *Facades:* All facades, including front and side facades and all rear facades that are visible from any public roadway or sidewalk or from private property, that are greater than 100 feet in length, measured horizontally, shall be interrupted by recesses, projections, windows, awnings and/or arcades and shall utilize a repeating pattern of change in color, texture and material modules.
- (3) All facades clearly visible from public streets or adjoining properties shall contribute to the scale of features of the building and feature characteristics similar to the front facade.
- (4) *Entryways:* Each principal building on a site shall have one or more clearly defined, highly visible customer entrances featuring one or more of the following: Canopies or porticos, arcades, arches, wing walls and/or planters.
- (5) *Materials:* Predominant exterior building materials shall be high quality materials, including brick, stucco, wood, stone and tinted/textured decorative concrete masonry units or other materials similar in appearance and durability. Under no circumstances shall unfinished concrete block be permitted.
- (6) *Colors:* Colors used for exterior surfaces shall be harmonious with surrounding development and shall visually reflect the traditional concept of the town. Color shades shall be used to facilitate blending into the neighborhood. Facade colors shall be of low reflectance earth tone, muted, subtle or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity or metallic colors is not allowed except for accent purposes. The use

of fluorescent, day glow or neon colors shall be prohibited as a predominate wall color. Variations in color schemes are encouraged in order to articulate entryways and public amenities so as to give greater recognition to these features. Color samples shall be provided to the staff at the time of site plan review and prior to any renovations, remodelings, facelifts and repainting, along with a description of how and where each color will be used. Colored renderings are encouraged, but shall not be a substitute for this requirement.

- (d) *Parking lots.* To prevent huge expanses of asphalt separating nonresidential buildings from streets, parking will be separated into sections separated by landscaping and other features. Larger parking areas shall be split into sections on different sides of the building or enclosed in an interior space between buildings so as not to be easily visible from the street in order to emphasize the building and de-emphasize the parking lot.
- (e) *Trash containment areas.* All trash containment devices, including compactors and dumpsters, shall be located and designed so as not to be visible from the view of nearby streets and properties. If the device is not visible from off the site, then it need not be screened. The type of screening used shall be determined based on the proposed location of the trash containment area, existing site conditions and the type and amount of existing and proposed vegetation on the site. Trash containment areas must be constructed of materials in similar color and nature to the primary structure.
- (f) *Mechanical and utility equipment.* Mechanical and utility equipment shall be screened from view from nearby streets and properties in the same manner as trash containment areas. Ground mounted equipment shall be located in the rear or side yard and screened. Such equipment located on the roof of the building shall also be made invisible from nearby streets and properties, through the use of setbacks from the edge of the roof or through the use of a screen exceeding the height of the equipment and using building materials and design which are compatible with those used for the exterior of the building. If the equipment is not visible from off the site, then it need not be screened. The type of screening used shall be determined based on the proposed location of the equipment, existing site conditions, and the type and amount of existing and proposed vegetation on the site.
- (g) *Landscape protection.* Any damage to the existing landscaping, including street trees, by development, use or condition of private property shall be corrected by the property owner at the owner's expense to the satisfaction of the Town of Weddington prior to the issuance of a certificate of occupancy. Any damage not corrected by the owner shall be corrected by the town, the cost of which is to be billed to the owner, including town administrative costs.
- (h) *Cultural resources.* Site development shall be considered in light of impacts on the cultural resources of the Town of Weddington. Cultural resources include historic properties, points of high elevation, significant sites and mature exceptional trees. Impacts on cultural resources shall be minimized by use of design, height, massing, scale, building orientation, site layout, visual and other development techniques to harmoniously integrate new development into the town while preserving and using cultural resources.
- (i) *Lighting.* Lighting shall conform to the Town of Weddington's Lighting Ordinance.

Sec. 14-107. - Additional standards.

- (a) *Applicability.* All nonresidential development shall meet these standards, in addition to those described in overall design and appearance standards.
- (b) *Basic building design.*

- (1) *Massing*: A single, large, dominant building mass shall be avoided. Where large structures are required, mass shall be broken up through the use of setbacks, projecting and recessed elements and similar design techniques.
- (2) *Varying architectural styles*: In developments with multiple structures of varying architectural styles, buildings shall be compatible by such means as a pattern of architectural features, similar scale and proportions and consistent location of signage.
- (3) *Additions and renovations*: Building additions and facade renovations shall be designed to reflect existing buildings in scale, materials, window treatment and color. A change in scale may require a transitional design element between the new development and existing buildings.
- (4) *Infill development*: New infill development shall either be similar in size and height or, if larger, be articulated and subdivided into massing that is proportional to the mass and scale of other structures in the area.

(c) *Architectural features.*

- (1) *Roofs*: Roof lines, type (such as flat, hip, mansard or gable), and materials shall be architecturally compatible with facade elements and the rest of the building and with other buildings on the same and adjoining area.
- (2) *Fenestration*: Windows, entryways, awnings and arcades shall total at least 60 percent of the facade length abutting a public street. Windows and glass doors shall be clear, transparent glass. No window or door shall be horizontally separated by more than 15 feet from the nearest other window or door in the same facade visible from any public street.
- (3) *Materials*: Building materials shall either be similar to the materials already being used in the neighborhood or, if dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture, shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials.
- (4) *Exterior wall cladding*: During renovations in existing buildings brick, stone or wood facades shall not be covered or replaced with artificial siding or panels, including decorative concrete masonry units. Fiber cement siding, such as the brand name "Hardiplank", may be used to replace wood clapboard siding.
- (5) *Awnings and canopies*: When used, awnings and canopies shall be placed at the top of window or doorway openings and shall relate to the shape of the top of the window. Awnings shall be made of canvas, treated canvas or similar material. Metal or vinyl (or plastic) awnings are prohibited. No awning shall extend more than the width of the sidewalk or nine feet, whichever is less. Awnings must be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.
- (6) *Canopies* shall be of solid materials and complement the color of the building to which they are affixed or associated. In some cases canopies may have supports separate from the building, such as at gas stations, but such canopies must be setback from the property and right-of-way lines a minimum of the required setback of accessory buildings, as required in the zoning district where located, and must not interfere with street trees or public utilities.

ARTICLE V. - SIGNS

Sec. 58-144. - Purpose.

The purpose of this article is to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, safety, and welfare, to protect and enhance property values and community appearance as part of the town's concerted effort to enhance the aesthetic quality, and to permit and regulate signs in such a way as to support and complement the land use objectives set forth in the land development plan.

(Ord. No. 87-04-08, § 8.1, 4-8-1987)

Sec. 58-145. - Signs permitted without permit.

The following signs shall not require a permit:

- (1) Signs required to be posted by law, signs established by governmental agencies, "Warning" signs and "No Trespassing" signs, town monuments and historical markers placed by a governmental agency or a recognized historical society. Historical markers shall not exceed six square feet in area, exclusive of the support structure. Town monuments shall not exceed 14 feet in height. Private unofficial traffic signs indicating directions, entrances, or exits, also shall not require a permit.
- (2) One sign, including a professional name plate, per dwelling unit, denoting the name of the occupant, not to exceed 1½ square feet in area.
- (3) All political signs; provided that such signs shall be placed in accordance with the following:
 - a. Persons may place signs within the street/road right-of-way no sooner than 30 days prior to "one-stop" early voting and shall be removed by the candidates within ten days after the primary or election day.
 - b. Permission is granted from any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected.
 - c. No sign shall be closer than three feet from the edge of the pavement of the road.
 - d. No sign shall obscure motorist visibility at an intersection.
 - e. No sign shall be higher than 42 inches above the edge of the pavement of the road.
 - f. No sign shall be larger than 864 square inches.
 - g. No sign shall obscure or replace another sign.
- (4) One sign advertising real estate or incidental items "for sale," "for rent," or "for lease," not greater than six square feet in area, located upon property so advertised or property where such incidental items are being sold. Any such sign advertising property for sale shall be removed within seven days after the property has been sold (upon closing), rented or leased. Any signs erected pursuant to this provision must not violate subsection 58-146(6). Any signs advertising

real estate subdivisions shall be limited to one sign no greater than six square feet in area located at the entrance of the subdivision.

- (5) A sign advertising the sale of produce on the premises where the produce is being sold and grown shall be no more than ten square feet per side.
- (6) Any sign in town, deemed by the zoning administrator to be in need of repair, shall be renovated within 30 days by the owner upon receipt of written notification.
- (7) Temporary signs erected by homeowners' associations or neighborhood associations which are not greater than six square feet in area and which are located upon property owned by the homeowners' association at the entrance to the subdivision for a maximum of five days.

(Ord. No. 87-04-08, § 8.2, 4-8-1987; Ord. No. O-2003-16, 7-14-2003; Ord. No. O-2011-05, 4-11-2011; Ord. No. O-2017-08, 4-17-2017)

Sec. 58-146. - Prohibited signs.

The following signs are expressly prohibited within all zoning districts, unless as otherwise specified in this chapter:

- (1) All off-premises signs, including directional signs and billboards. Such prohibition, however, shall not be applicable to temporary signs permitted by section 58-151.
- (2) All portable signs, except as may otherwise be allowed by this chapter.
- (3) Flashing light signs.
- (4) Any sign which the zoning administrator determines obstructs the view of bicyclists or motorists using any street, private driveway, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device or signal.
- (5) Luminous signs.
- (6) Any sign placed upon a traffic control sign, tree that is on public land or lies within a public road right-of-way, or utility pole for any reason whatsoever.
- (7) Building-mounted signs.

(Ord. No. 87-04-08, § 8.3, 4-8-1987; Ord. No. O-2003-06, 3-10-2003; Ord. No. O-2012-01, 1-9-2012; Ord. No. O-2012-03, 3-12-2012; Ord. No. O-2016-04, 4-11-2016)

Sec. 58-147. - General requirements.

- (a) Any lighted sign or lighting device shall be so oriented as not to cast light upon a public right-of-way so as to cause glare, intensity or reflection that may constitute a traffic hazard or a nuisance, or cast light upon adjacent property that may constitute a nuisance.
- (b) Lighted signs shall employ only devices emitting a light of constant intensity and white color, and no signs shall be illuminated by a flashing, intermittent, rotating or moving light.
- (c) No electric sign shall be so located with relation to pedestrian traffic as to permit such sign to be easily reached by any person. The bottom of such sign shall be located a minimum of ten feet above

the grade immediately under said sign, if the sign is within 15 feet of the edge of the street right-of-way.

(d) The area of a sign shall be measured by measuring one face of the entire sign including any border or trim and all of the elements of the matter displayed, but not including the base or apron, supports or other structural members. The area of a double-face sign shall be the area of one face of the sign.

(e) Nonconforming signs shall be subject to the provisions contained in section 58-112.

(f) Fencing, scoreboards, and structures in the athletic fields may be utilized for customary signs, and all such signs shall be directed solely towards users of the facility. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size and shall be permitted by the zoning administrator in the manner of other permanent, attached (on-structure) signs under section 58-148, or temporary signs under section 58-151, without amendment to the conditional use permit or conditional zoning permit so long as compliance with all standards in this chapter are met.

(Ord. No. 87-04-08, § 8.4, 4-8-1987; Ord. No. O-2006-05, 1-9-2006; Ord. No. O-2011-13, 9-12-2011; Ord. No. O-2012-03, 3-12-2012)

Sec. 58-148. - Attached (on-structure) signs.

(a) On-structure signs shall be considered either attached signs or painted wall signs.

(b) No sign painted on a building or wall shall exceed 20 percent of the wall area, or a maximum of 64 square feet, with the exception of attached (on-structure) signs located at the athletic fields containing signs which shall be permitted per subsection (d) of this section.

(c) No sign shall be located on the roof of any structure or extended above the parapet or eave line of any structure.

(d) Attached (on-structure) signs customarily located at athletic fields containing signs shall be directed solely toward users of the facility. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size.

(Ord. No. 87-04-08, § 8.5, 4-8-1987; Ord. No. O-2006-05, 1-9-2006)

Sec. 58-149. - Freestanding ground signs.

(a) No portion of any freestanding ground sign shall be higher than seven feet above grade as measured to the top of the sign.

(b) No part of the sign, including projections, shall be located closer than 15 feet to any adjacent side lot line and shall not be located within five feet of the edge of the street right-of-way line.

(c) All freestanding ground sign structures or poles shall be self-supporting structures erected on or set into and permanently attached to concrete foundations. Such structures or poles shall comply with the building codes of Union County and be affixed as not to create a public safety hazard.

(d) The sign shall be located in a manner that does not impair traffic visibility.

(e) Freestanding ground signs are permitted as long as the building or structure in which the activity is conducted is set back at least 30 feet from the street right-of-way.

(f) The maximum sign area varies by type and use. Unless otherwise specified in the ordinance, the maximum total sign area per side shall be 50 square feet and the total text area per side (including logos) shall be no greater than 20 square feet.

(Ord. No. O-2011-09, 5-9-2011; Ord. No. O-2011-11, 7-11-2011; Ord. No. O-2011-15, 11-14-2011; Ord. No. O-2012-04, 3-12-2012)

Editor's note— Ord. No. O-2011-09, adopted May, 9, 2011 deleted § 58-149 "Freestanding signs" and § 58-150 "Ground signs" and further adding new provisions as § 58-149 as set out herein. Former §§ 58-149, 58-150 derived from Ord. No. 87-04-08, §§ 8.6, 8.7, adopted Apr. 8, 1987.

Sec. 58-150. - Orientation signs.

(a) Orientation signs are allowed on church campuses and educational and governmental facilities containing several buildings located on one or more lots.

(b) Orientation signs are intended for directing pedestrians and traffic and are not allowed off-premises.

(c) All orientation signs must be secured to the ground or affixed so as not to create a public safety hazard.

(d) The sign shall be located so as to not impair traffic visibility.

(e) The maximum total sign area per side shall be 14 square feet including all text, graphics and logos.

(f) No freestanding ground orientation sign shall be located higher than six feet above grade as measured to the top of the sign.

(g) No part of the sign, including projections shall be located closer than 15 feet to any adjacent side lot line and shall not be located within 20 feet of the edge of the street right-of-way line.

(Ord. No. O-2011-11, 7-11-2011)

Sec. 58-151. - Temporary signs.

(a) *Banners, pennants and temporary signs.* The following temporary signs are permitted after the zoning administrator has issued a temporary sign permit, for a total period not to exceed 30 days:

(1) Except for temporary off-premises signs authorized under subsection (a)(3) of this section, special event signs set out below, unlighted portable signs, banners and wind-blown signs such as pennants, spinners, flags and streamers for special events, grand openings and store closings. Any such sign shall be no greater than 20 square feet and shall be limited to one sign per address. For the purposes of this section, special event shall mean any festive, educational, sporting or artistic event or activity for a limited period of time, which is not considered as part of the normal day-to-day operations of the group, organization or entity.

(2) Temporary banner-type signs customarily located at athletic fields containing signs shall be directed solely towards users of the athletic field. Fencing, scoreboards and structures in the athletic fields may be utilized for customary signs in order to raise funds for these same facilities. Such individual temporary signs shall not exceed 20 square feet in size, may be permitted for a period not to exceed one year, and may be renewed so long as the sign remains in compliance with the requirements of this article.

(3) A maximum of two off-premises signs shall be allowed per event, provided one temporary off-premises special event sign shall be allowed, per parcel fronting on a public road upon the issuance of a temporary use permit, subject to the following restrictions:

- a. Each temporary off-premises special event sign shall be on private property, outside the road right-of-way and subject to permission of the property owner;
- b. A temporary off-premises special event sign can only be placed seven days before the special event and must be removed 48 hours after the special event;
- c. A separate permit must be issued for each temporary off-premises special event sign;
- d. No parcel may be issued more than four temporary off-premises special event sign permits during any 12-month period;
- e. Temporary off-premises special event signs shall be limited to four times per year, per group/organization.

(b) *Construction announcement signs.* One construction announcement sign per project shall be permitted and shall require a sign permit, valid for one year and renewable, one time, for one additional year, shall comply with the provisions of section 58-149, and shall be single-faced of a maximum area of 20 square feet. This sign shall be temporary and shall be removed within seven days after completion of the work on the subject property by the firm that is advertised on the sign. Announcement signs are not to be used to advertise real estate or subdivisions. No lighting of announcement signs shall be permitted.

(c) *Subdivision sales signs.* One subdivision sales sign per entrance shall be permitted and shall require a sign permit, valid for one year and renewable annually as long as ten percent (rounded up) or ten lots, (excluding septic and unbuildable lots) whichever is less, continue to be marketed for sale. Subdivision sales signs may be no greater than 20 square feet (including text and support structure) in area and six feet in height, measured from grade, and must be located behind the right-of-way line and out of the sight triangle at the subdivision entrance. No lighting of subdivision sales signs shall be permitted.

(Ord. No. 87-04-08, § 8.8, 4-8-1987; Ord. No. O-2003-07, 3-10-2003; Ord. No. O-2009-04, 7-13-2009; Ord. No. O-2010-04, 5-10-2010; Ord. No. O-2011-14, 11-14-2011; Ord. No. O-2011-16, 12-12-2011; Ord. No. O-2012-07, 5-14-2012; Ord. No. O-2012-11, 7-9-2012)

Sec. 58-152. - Signs permitted in all R residential districts.

(a) Signs on-premises of single-family and two-family dwellings and on the premises of mobile homes in all R residential districts are regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	One per dwelling unit.
(3)	Maximum area of signs:	Three square feet.
(4)	Permitted location:	Behind street right-of-way.

(b) Signs on-premises of small group day care homes are regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	One per dwelling unit.
(3)	Maximum area of signs:	Three square feet.
(4)	Permitted location:	Behind street right-of-way.

(c) Signs on-premises of cemeteries are regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	One per street front.
(3)	Maximum area of signs:	20 square feet.
(4)	Permitted location:	Behind required setback.

(d) Signs on-premises of church campuses and educational and governmental facilities are regulated as follows:

(1)	Types of signs permitted:	Identification, Bulletin Board and Orientation
(2)	Permitted number of signs:	Attached: One for each building's main entrances. All requirements of section 58-148 shall be met.
		Freestanding Ground Identification and Bulletin Board: One identification or one bulletin board per principal building.

		Orientation: One freestanding ground and two attached for each 750 feet of frontage on a public roadway on one or more contiguous lots with common ownership. All requirements of subsection 58-150(1) shall be met.
(3)	Maximum area of signs:	Attached: One square foot of aggregate area per linear foot of building street frontage up to a maximum of 64 square feet per premises, regardless of the number of establishments occupying such premises.
		Freestanding Ground (excluding Orientation): The maximum total sign area per side shall be 25 square feet and the total text area per side (including logos) shall be no greater than 20 square feet.
		Temporary and Bulletin Board: 25 square feet. Bulletin Board signs that display text that changes regularly shall be allowed to have permanent support structures as long as the text area including logos or other graphics does not exceed 20 square feet.
		Orientation: The maximum total sign area per side shall be 14 square feet including all text, graphics and logos.
(4)	Permitted location:	Attached: Signs shall be located on the building and shall not extend above the parapet of the building nor more than 18 inches from any building wall or marquee face, provided that such sign shall not project more than six inches into the street right-of-way unless it is at least ten feet above street grade, in which case it may not extend more than 18 inches into the street right-of-way.
		Orientation: 20 feet behind property line and in accordance with subsection 58-150(1).

(e) Signs on all other nonresidential uses in an R district are regulated as follows:

(1)	Types of signs permitted:	Identification and bulletin board
(2)	Permitted number of signs:	One principal building: One identification and one bulletin board each. A third sign is permitted if the building is located on a through lot or has frontage on three or more streets.

		Two or more principal buildings: One identification and one bulletin board for the first principal building, plus one identification or one bulletin board for each additional principal building.
(3)	Maximum area of signs:	One principal building: No sign shall be greater than 30 square feet.
		Two or more principal buildings: No signs shall be greater than 15 square feet.
(4)	Permitted location:	Identification and bulletin board: Behind right-of-way line.

(f) Subdivision identification signs (included on entry monuments) shall be regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	Two signs per subdivision entrance.
(3)	Maximum area of signs:	No sign shall be greater than 20 square feet in area.
(4)	Permitted location:	Behind right-of-way line.

Sec. 58-153. - Signs permitted in B-1 and B-2 business districts.

(a) Signs on-premises of permitted uses conducted in buildings or with buildings associated shall be regulated as follows:

(1)	Types of signs permitted:	Business and/or identification.
(2)	Permitted number of signs:	Attached: One only, except that an additional freestanding sign may be permitted on through lots or lots having frontage on three or more streets. All requirements of section 58-148 shall also be met.
		Ground: One only, except that an additional ground sign may be permitted on through lots having frontage on three or more streets.

(3)	Maximum area of signs:	Attached: One square foot of aggregate area per linear foot of building street frontage up to a maximum of 64 square feet per premises, regardless of the number of establishments occupying such premises.
		Freestanding: One-half the permitted size of attached signs, except as indicated in this section.
		Ground: 20 square feet.
(4)	Permitted location:	Attached: Signs shall be located on the building and shall not extend above the parapet of the building nor more than 18 inches from any building wall or marquee face, provided that such sign shall not project more than six inches into the street right-of-way unless it is at least ten feet above street grade, in which case it may not extend more than 18 inches into the street right-of-way.
		Freestanding: Signs shall be no greater than 20 feet in height and in accordance with section 58-149.
		Ground: Behind street right-of-way line and in accordance with section 58-150.

(b) Shopping center identification signs shall be regulated as follows:

(1)	Types of signs permitted:	Shopping center identification.
(2)	Permitted number of signs:	A shopping center containing three or more businesses with separate entrances may have one freestanding identification sign giving the names of the businesses located in the shopping center. No other freestanding signs shall be allowed. Such sign shall be in accordance with section 58-149.
(3)	Maximum area of signs:	The maximum total sign area per side shall be no greater than 100 square feet and the total text area per side (including logos) shall be no greater than 50 square feet, provided that no portion of the sign advertising a particular business shall be in excess of 20 square feet.
(4)	Permitted location:	The maximum height of any portion of the sign shall be no greater than 12 feet from grade and shall be located behind the right-of-way line.

ARTICLE VI. - OFF-STREET PARKING AND LOADING

Sec. 58-175. - Off-street parking

Every new use, or an enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this article, unless specifically exempt from such provisions or portions thereof.

- (1) Off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this article. Parking spaces may be decreased when a change of use in either a structure or of land requires less spaces than provided for the replaced use.
- (2) A one-time only enlargement of a structure or increase in the amount of land used may be made for existing uses deficient in off-street parking, provided that the enlargement or increase does not represent a requirement in excess of five off-street parking spaces. In the event that such increase represents a requirement in excess of five off-street parking spaces, such increase shall require complete compliance of the provisions of this article for the entire use.
- (3) Off-street parking shall be located as follows:
 - a. Parking as required herein shall be located on the same lot as the principal use except when specifically permitted to be located elsewhere. Driveways shall be considered as providing off-street parking spaces for all single-family and two-family dwellings.
 - b. Cooperative provisions for off-street parking may be made by contract between owners of adjacent property, and such contract filed with the zoning administrator. The parking area provided on any one lot may be reduced to not less than half the parking spaces required for the use occupying such lot. The total number of spaces provided under such a cooperative parking scheme shall not be less than the total number of spaces required for each use.
 - c. No parking area shall be located over an active septic tank field.
 - d. In residential areas, the temporary parking or storage of mobile homes shall be prohibited. Boats, motor homes and camping trailers may, however, be stored or temporarily parked in a residential district. All inoperative motor vehicles stored outdoors shall be parked behind the residence and screened from the public right-of-way.
 - e. Parking areas may not be extended into the required rear yard and side yard setbacks.
 - f. A city or town hall, post office, library or other governmental facility may count shared parking spaces toward up to 50 percent of its total off-street parking requirement. Such a use may share parking spaces only with one or more other uses that also may share parking spaces under subsection (4)c of this section. The following formula shall be used to determine how many shared parking spaces a particular use may apply toward its off-street parking requirement:
 1. For off-street private parking, a use may treat as shared parking, any parking spaces that are within 800 feet of that use. A document must be filed with the town's zoning administrator that confirms that the parking lot's owner or operator consents to parking spaces in that lot being shared. If fewer than all the spaces within the lot are being shared, this document must clearly identify which spaces are being shared. If the shared parking arrangement described in the document is later modified, a

document describing the modified arrangement must be filed with the town's zoning administrator. If the shared parking arrangement described in any document filed with the town's zoning administrator is later rescinded, the zoning administrator must be notified immediately. If the rescission or modification of a shared parking arrangement leaves a use with inadequate parking to satisfy the requirements of this article, said use will not be considered nonconforming, and it will not be permitted to continue without satisfying this article's parking requirements.

(4) Design standards for parking areas are as follows:

- a. A parking space shall be not less than nine feet in width nor less than 20 feet in length. In lots of more than 20 spaces, compact stalls may be permitted on the basis of one compact stall to each additional five standard stalls. Each compact stall shall be seven feet wide and 17 feet long, and shall be clearly marked, "small cars only." All parking stalls shall be clearly marked and such markings shall be maintained so as to be easily seen.
- b. Parking bays shall be designed in accordance with accepted standard practice for parking at various angles, with aisles being of such widths as to permit the entering and leaving of a parking space with ease and safety.
- c. Access to all required parking areas shall be by roads adequate in width to accommodate two-way traffic, except for parking areas designed and clearly marked for one-way traffic. Except by way of approved driveways, access from or egress to a public road from a parking area shall be expressly prohibited. Adequate provisions shall be made to insure compliance by the use of fences, walls, wheel stops or landscaping, or a combination of those devices.
- d. Wheel stops, curbs, or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.
- e. Parking areas shall be so designed as to retain existing trees and other plant life. Where no trees or other plant life exists, adequate landscaping shall be provided, both within the parking area and on the external boundaries of such area.
- f. Screening shall be provided as required in section 58-8.
- g. Signs shall be permitted in compliance with section 58-153.

(5) Permits for driveway locations on state-maintained roads shall be obtained from the state department of transportation.

(6) Storm drainage facilities shall be required, and shall be so designed as to protect any public right-of-way or adjacent property from the damage.

(7) The requirements for off-street parking spaces shall be computed as follows:

- a. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half or more shall require one parking space.
- b. Where seats consist of pews or benches, each 20 inches in length of pew or a bench shall be considered as one seat.
- c. For the purpose of computing parking requirements based on the number of employees, the owners or managers shall also be considered employees.
- d. Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.

(8) The following chart indicates the minimum off-street parking requirements:

Use Classification	Parking Space Requirement
Banquet, reception and conference center	1 per employee during the shift of greatest employment plus 1 space for every 2 guests based on the maximum number of guests the facility can accommodate. At a minimum, each use shall have parking to accommodate at least 30 vehicles.
Cemeteries	1 space per employee during the shift of greatest employment plus parking on private internal roads.
Churches, synagogues and other places of worship	1 space per employee during the shift with greater employment plus 1 space for each 4 seats in the sanctuary.
Community recreational centers; country clubs; fraternal, social and recreational organizations	1 space for the largest number of employees per shift, plus 2 spaces for each 3 memberships, plus 1 space for each vehicle used in the operation.
Customary home occupations	1 space plus the number of spaces required for the residential use.
Day care centers	1 space per employee during the shift of greatest employment plus 1 space per 5 children.
Dwellings, one-family	2 spaces for each 1 dwelling unit.
Dwellings, two-family	2 spaces for each 1 dwelling unit.
Elementary and secondary schools	3 spaces for each room used for instruction or administration, or one space for each four seats used for assembly purposes, whichever is greater.
Family care homes	1 space for each 3 employees, plus 1 space to each guestroom.
Fire station	1 space per employee during the shift of greatest employment.
Funeral chapels	1 space for each 3 seats in the chapel or chapels plus 2 spaces for each 3 employees, plus 1 space for each vehicle used in

	the operation. In addition, off-street parking area shall be provided, on the site, to accommodate a minimum of 30 passenger vehicles for the purpose of forming a funeral procession.
Health/sports club; school for the arts	1 space per employee during the shift of greatest employment plus 1 space for each 2 students/participants as determined during the time of day of greatest student/participant enrollment plus 1 space for each vehicle used in the operation.
Libraries	1 space per 200 square feet of gross floor area.
Medical and dental offices	4 spaces for each doctor practicing at the clinic, plus 1 space for each employee.
Offices, professional, business, or public (excluding medical and dental offices and clinics)	1 space per employee during the shift with greater employment plus 1 space for each 300 square feet of gross floor area.
Places of public assembly, including private clubs and lodges, auditoriums, stadiums, gymnasiums, community centers, public parks and recreational facilities and all similar places of public assembly	1 space for each 4 seats provided for patron use, plus 1 space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.
Post office, city hall	1 space per employee during the shift of greater employment plus 1 space for each 200 square feet of gross floor area.
Recreational facilities	
Driving range	1.2 spaces per tee.
Golf course (nine and 18 holes)	90 spaces per 9 holes.
Swimming pool	1 space per 75 square feet of water.
Swimming pool (as part of a subdivision)	1 space per 100 square feet of water.

Tennis or racquet court	3 spaces per court.
Tennis courts (as part of a subdivision)	2 spaces per court.
Other outdoor recreation	1 space per 200 square feet.
25 percent to 40 percent of parking spaces for these recreational facilities may be on nonasphalt material	
Restaurants	1 space for each employee during the shift of greater employment plus one space for each three seats.
Retail business and consumer service outlets (except as noted)	1 space for each 200 square feet of gross floor area.
Riding stables, commercial	1 space for each employee during the shift of greater employment plus 2 spaces for each 3 stalls, plus 1 space for each vehicle used in the operation.
Service stations	2 spaces for each gas pump plus 1 space for each employee during the shift of greatest employment.
Shopping center	1 space per 200 square feet of leasable floor area for the first 20,000 square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square footage of 140,001 or over.
Telephone exchange building, electric or gas substation, water tower or tank, pump station	One space for each employee during the shift of greatest employment and/or one space for each vehicle used in the operation.

(Ord. No. 87-04-08, § 9.1, 4-8-1987; Ord. No. O-2006-06, 3-13-2006; Ord. No. O-2006-14, 8-14-2006; Ord. No. O-2011-02, 3-14-2011)

Sec. 58-176. - Off-street loading requirements.

(a) *Purpose.* In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in streets and parking lots, the off-street loading requirements set forth in this section shall apply. These requirements will apply to new buildings and uses, and to additions to existing buildings and uses.

(b) *Minimum off-street loading space requirements.*

- (1) An off-street loading berth shall have a minimum area of 12 feet by 25 feet and 14 feet overhead clearance.
- (2) The following minimum requirements shall apply for commercial uses:
 - a. One loading space for uses having gross floor areas of 10,000 to 29,999 square feet.
 - b. Two loading spaces for uses having gross floor areas of 30,000 square feet or more.
- (3) For a structure containing less than 10,000 square feet of gross floor area, off-street loading can be provided using off-street parking spaces.

(c) *Design standard for loading areas.*

- (1) Access to all required loading areas shall be by roads adequate in width to accommodate two-way traffic, except for loading areas designed and clearly marked for one-way traffic.
- (2) Upon entering an off-street loading area, such maneuvering as is necessary to gain access to a loading space shall be within the confines of the loading facility property only.
- (3) Wheel stops, curbs or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.
- (4) Screening shall be provided as required as section 58-8.
- (5) Signs shall be permitted in compliance with article V of this chapter.
- (6) Lighting shall be permitted in compliance with section 58-7.
- (7) Storm drainage facilities shall be required and shall be so designed as to protect any public right-of-way or adjacent property from damage.
- (8) Permits for driveway locations on state-maintained roads shall be obtained from the state department of transportation.

(Ord. No. 87-04-08, § 9.2, 4-8-1987)

Secs. 58-177—58-205. - Reserved.

Part 2. Environmental Regulation.

§ 160D-920. Local environmental regulations.

(a) Local governments are authorized to exercise the powers conferred by Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes to adopt and enforce local ordinances pursuant to this Part to the extent necessary to comply with State and federal law, rules, and regulations or permits consistent with the interpretations and directions of the State or federal agency issuing the permit.

(b) Local environmental regulations adopted pursuant to this Part are not subject to the variance provisions of G.S. 160D-705 unless that is specifically authorized by the local ordinance. (2019-111, s. 2.4.)

§ 160D-921. Forestry activities.

(a) The following definitions apply to this section:

(1) Development. - Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.

(2) Forest management plan. - A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.

(3) Forestland. - Land that is devoted to growing trees for the production of timber, wood, and other forest products.

(4) Forestry. - The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

(5) Forestry activity. - Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

(b) A local government shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either of the following:

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

(c) This section shall not be construed to limit, expand, or otherwise alter the authority of a local government to:

(1) Regulate activity associated with development. A local government may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:

a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under

- local government regulations governing development from the tract of land for which the permit or approval is sought.
- b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the local government regulations.
- (2) Regulate trees pursuant to any local act of the General Assembly.
 - (3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.
 - (4) Exercise its planning or zoning authority under this Chapter.
 - (5) Regulate and protect streets. (2019-111, s. 2.4.)

§ 160D-922. Erosion and sedimentation control.

Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter. (2019-111, s. 2.4.)

ARTICLE XIV. - SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

Sec. 58-601. - Title.

This article may be cited as the Weddington Soil Erosion and Sedimentation Control Ordinance.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-602. - Purpose.

This article is adopted for the purposes of:

- (a) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (b) Establishing procedures through which these purposes can be fulfilled.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-603. - Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it as amended from time to time.

Adequate erosion control measure, structure, or device means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

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

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow means fill material which is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or natural watercourse.

Coastal counties means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

Commission means the North Carolina Sedimentation Control Commission.

Completion of construction or development means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department means the North Carolina Department of Environmental Quality

Director means the director of the division of energy, mineral and land resources of the department of environment and natural resources.

Discharge point means that point at which stormwater runoff leaves a tract of land.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

High quality water (HQW) zones means, for the coastal counties, areas within 575 feet of high quality waters; and for the remainder of the state, areas within one mile and draining to HQWs.

High quality waters means those classified as such in 15A NCAC 2B.0101(e) (5)—General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. 150B-14(c).

Lake or natural watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

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.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the act.

Natural erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity means any person who may be held responsible for a violation unless expressly provided otherwise by this article, the act, or any order adopted pursuant to this article or the act.

Person responsible for the violation means:

- (1) The developer or other person who has or holds himself out as having financial or operation control over the land-disturbing activity; or
- (2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this article, the act, or any order adopted pursuant to this article or the act.

Phase of grading means one of two types of grading: rough or fine.

Plan means an erosion and sedimentation control plan

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

Subsidiary means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

Ten-year storm means 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.

Tract means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five year storm means a rainfall of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity means 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.

Waste means surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

Working days means days exclusive of Saturday and Sunday, and federal and state holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-604. - Scope and exclusions.

(a) *Geographical scope of regulated land-disturbing activity.* This article shall apply to land-disturbing activity within the territorial jurisdiction of the Town of Weddington, as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

(b) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of this article to all land-disturbing activity, this article shall not apply to the following types of land-disturbing activity:

(1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

f. Fur producing animals.

g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

(2) An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines

Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this article shall apply to such activity and any related land-disturbing activity on the tract.

(3) An activity for which a permit is required under the Mining Act of 1971, G.S. ch. 74. art. 7.

(4) A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

(5) An activity which is essential to protect human life during an emergency.

(6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under section 404 of the Clean Water Act.

(7) Activities undertaken pursuant to natural resources conservation service standards to restore the wetlands functions of converted wetlands as defined in title 7 Code of Federal Regulations section 12.2

(c) *Plan approval requirement for land-disturbing activity.* No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a plan approval therefor from the Town of Weddington.

(d) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(e) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.

(f) *Plan approval exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-605. - Mandatory standards for land-disturbing activity.

No land-disturbing activity subject to the control of this article shall be undertaken except in accordance with the following mandatory standards:

(a) *Buffer zone.*

(1) *Standard buffer.* No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.

a. *Projects on, over or under water.* This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

b. *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(b) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

(c) *Fill material.* Unless a permit from the department's division of waste management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

(d) *Ground cover.* Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion shall be accomplished within 60 calendar days following completion of construction or development, whichever period is shorter.

(e) *Prior plan approval.* No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the Town of Weddington. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

The Town of Weddington shall forward to the director of the division of water resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(f) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-606. - Erosion and sedimentation control plans.

(a) *Plan submission.* A plan shall be prepared for all land-disturbing activities subject to this article whenever the proposed activity will disturb more than one acre on a tract. Three copies of the plan shall be filed with the Town of Weddington.

(b) *Financial responsibility and ownership.* Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the

person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the act, this article, or rules or orders adopted or issued pursuant to this article. Except as provided in subsections (b)(1) or (j) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(1) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(c) *Environmental policy act document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town of Weddington shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this article shall not begin until a complete environmental document is available for review.

(d) *Content.* The plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town of Weddington on request.

(e) *Soil and water conservation district comments.* The district shall review the plan and submit any comments and recommendations to Town of Weddington within 20 days after the district received the plan, or within any shorter period of time as may be agreed upon by the district and the Town of Weddington. Failure of the district to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(f) *Timeline for decisions on plans.* The Town of Weddington will review each complete plan submitted and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. The Town of Weddington will review each revised plan submitted and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(g) *Approval.* The Town of Weddington shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town of Weddington shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The Town of Weddington may establish an expiration date, not to exceed three years, for plans approved under this article.

(h) *Disapproval for content.* The Town of Weddington may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(i) *Other disapprovals.* The Town of Weddington shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the environmental management commission to protect riparian buffers along surface waters. The Town of Weddington may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (j) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan or has received notice of violation of a plan previously approved by the commission or a local government pursuant to this article and has not complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this article or a local ordinance adopted pursuant to this article by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this article.

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to this article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town of Weddington pursuant to subsection (i) of this section, the local government shall so notify the director of the division of energy, mineral, and land resources within ten days of the disapproval. The Town of Weddington shall advise the applicant or the proposed transferee and the director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of section 58-617(a), the applicant may appeal the local government's disapproval of the plan directly to the commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(j) The Town of Weddington administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

(1) The Town of Weddington may transfer a plan if all of the following conditions are met:

a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

b. The Town of Weddington finds all of the following:

1. The plan holder is one of the following:

i. A natural person who is deceased.

ii. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

- iii. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - iv. A person who has sold the property on which the permitted activity is occurring or will occur.
2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 3. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 4. There will be no substantial change in the permitted activity.
- (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
 - (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
 - (4) Notwithstanding changes to law made after the original issuance of the plan, the Town of Weddington may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town of Weddington from requiring a revised plan pursuant to G.S. 113A-54.1(b).
- (k) *Notice of activity initiation.* No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.
 - (l) *Preconstruction conference.* When deemed necessary by the approving authority a preconstruction conference may be required.
 - (m) *Display of plan approval.* A plan approval issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.
 - (n) *Required revisions.* After approving a plan, if the Town of Weddington either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town of Weddington shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the Town of Weddington determines that the plan is inadequate to meet the requirements of this ordinance, the Town of Weddington, may require any revision of the plan that is necessary to comply with this article.
 - (o) *Amendment to a plan.* Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town of Weddington, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.
 - (p) *Failure to file a plan.* Any person engaged in land-disturbing activity who fails to file a plan in accordance with this article, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this article.
 - (q) *Self-inspections.* The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after

each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by section 58-606(q) of this article and G.S. 113A-54.1(e), the following apply:

- (1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
 - a. All of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including, but not limited to, sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in subsection (1)e. of this rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;
 - b. The completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - c. The location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in paragraph (e) of this subpart) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - d. That maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general stormwater permit monitoring form may be used to verify the maintenance and repair requirements); and

e. Any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

(2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

(3) The inspection shall be performed during or after each of the following phases of a plan:

- a. Installation of perimeter erosion and sediment control measures;
- b. Clearing and grubbing of existing ground cover;
- c. Completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
- d. Completion of storm drainage facilities;
- e. Completion of construction or development; and
- f. Quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-607. - Basic control objectives.

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

- (1) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (2) *Limit time of exposure.* All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.
- (3) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

- (4) *Control surface water.* Surface water runoff originating upgradient of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) *Manage stormwater runoff.* When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-608. - Design and performance standards.

Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-609. - Stormwater outlet protection.

- (a) *Intent.* Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.
- (b) *Performance standard.* Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - (1) The velocity established by the maximum permissible velocities table set out within this subsection; or
 - (2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.
 If condition (1) or (2) of this paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent.

Maximum Permissible Velocities Table

The following is a table for maximum permissible velocity for stormwater discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

Material	F.P.S.	M.P.S.

Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source—Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

(c) *Acceptable management measures.* Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town of Weddington recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

- (2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
- (5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

(d) *Exceptions.* This rule shall not apply where it can be demonstrated to the Town of Weddington, that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-610. - Borrow and waste areas.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the department's division of waste management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-611. - Access and haul roads.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-612. - Operations in lakes or natural watercourses.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-613. - Responsibility for maintenance.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by

the approved plan or any provision of this article, the act, or any order adopted pursuant to this article or the act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-614. - Additional measures.

Whenever the Town of Weddington determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-615. - Fees.

The Town of Weddington has established a fee schedule for the review and approval of plans and has considered the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-616. - Plan appeals.

(a) Except as provided in section 58-617(b) of this article, the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:

- (1) The disapproval or modification of any proposed plan by the Town of Weddington, shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.
- (2) A hearing held pursuant to this section shall be conducted by the Town of Weddington, stormwater board, within 30 days after the date of the appeal or request for a hearing.
- (3) The stormwater board conducting the hearings shall make recommendations to the governing body of the Town of Weddington, within 30 days after the date of the hearing on any plan.
- (4) The governing body of the Town of Weddington, will render its final decision on any plan within 30 days of receipt of the recommendations from the stormwater board conducting the hearing.
- (5) If the Town of Weddington upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the Town of Weddington's decision to the commission as provided in G.S. 113A-61(c) and 15A NCAC 4B 0118(d)

(b) In the event that a plan is disapproved pursuant to section 58-606(i) of this article, the applicant may appeal the Town of Weddington's disapproval of the plan directly to the commission.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-617. - Inspections and investigations.

- (a) *Inspection.* Agents, officials, or other qualified persons authorized by the Town of Weddington will periodically inspect land-disturbing activities to ensure compliance with the act, this article, or rules or orders adopted or issued pursuant to this article, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.
- (b) *Willful resistance, delay or obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Weddington while that person is inspecting or attempting to inspect a land-disturbing activity under this section.
- (c) *Notice of violation.* If the Town of Weddington determines that a person engaged in land-disturbing activity has failed to comply with the act, this article, or rules, or orders adopted or issued pursuant to this article, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the act, or this article, or rules, or orders adopted pursuant to this article, and inform the person of the actions that need to be taken to comply with the act, this article, or rules or orders adopted pursuant to this article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this article.
- (d) *Investigation.* The Town of Weddington shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this article, 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 land-disturbing activity.
- (e) *Statements and reports.* The Town of Weddington shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-618. - Penalties.

- (a) *Civil penalties.*
 - (1) *Civil penalty for a violation.* Any person who violates any of the provisions of the act, this article, or any rule or order adopted or issued pursuant to the act, this article, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the Town of Weddington may assess per violation is \$5,000.00. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.00.

- (2) *Civil penalty assessment factors.* The governing body of the Town of Weddington shall determine the amount of the civil penalty based upon the following factors:
 - a. The degree and extent of harm caused by the violation,
 - b. The cost of rectifying the damage,
 - c. The amount of money the violator saved by non-compliance,
 - d. Whether the violation was committed willfully, and
 - e. The prior record of the violator in complying or failing to comply with the act, or any ordinance, rule, or order adopted or issued to the act by the commission or by a local government.
- (3) *Notice of civil penalty assessment.* The governing body of the Town of Weddington shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town of Weddington shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town of Weddington (in accordance with the procedures of chapter 58 of the Code of Ordinances of the Town of Weddington), or file a request with the sedimentation control commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to G.S. ch. 150B and a stipulation of the facts on which the assessment was based.
- (4) *Final decision.* The final decision on contested assessments shall be made by the governing body of the Town of Weddington in accordance with chapter 58 of the Code of Ordinances of the Town of Weddington.
- (5) *Appeal of final decision.* Appeal from the final decision of the governing body of the Town of Weddington shall be to the superior court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the Town of Weddington.
- (6) *Collection.* If payment is not received within 60 days after it is due, the Town of Weddington may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due. An assessment that is not contested, and remission is not requested, is due when the violator is served with a notice of assessment. An assessment that is contested, or remission is requested, is due at the conclusion of the administrative and judicial review of the assessment or request for remission.
- (7) *Credit of civil penalties.* The clear proceeds of civil penalties collected by the Town of Weddington under this subsection shall be remitted to the civil penalty and forfeiture fund in accordance with G.S. 115C-457.2. Penalties collected by the Town of Weddington may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each Town of Weddington for the prior fiscal year.
In any event, the cost percentage shall not exceed 20 percent of penalties collected.

(b) *Criminal penalties.* Any person who knowingly or willfully violates any provision of the act, this article, or any rule or order adopted or issued pursuant to the act or this article, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a class 2 misdemeanor which may include a fine not to exceed \$5,000.00 as provided in G.S. 113A-64.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-619. - Injunctive relief.

(a) *Violation of local program.* Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town of Weddington, or any term, condition, or provision of an approved plan, it 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 Town of Weddington, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(b) *Abatement of violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this article.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-620. - Restoration after non-compliance.

The Town of Weddington may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this article.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-621. - Severability.

If any section or section or sections of this article is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-622. - Effective date.

This article becomes effective on October 14, 2019.

(Ord. No. O-2019-05, 10-14-2019)

§ 160D-923. Floodplain regulations.

Any local government may enact and enforce floodplain regulation or flood damage prevention regulations as authorized by Part 6 of Article 21 of Chapter 143 of the General Statutes and shall comply with all applicable provisions of that Part and, to the extent not inconsistent with that Article, with this Chapter. (2019-111, s. 2.4.)

ARTICLE XIII. - FLOOD DAMAGE PREVENTION, DRAINAGE, STORMWATER MANAGEMENT AND WETLAND PROTECTION⁴

Footnotes:

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Editor's note— Ord. No. O-2008-10, adopted Oct. 13, 2008, set out provisions intended for use as art. XI. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as art. XIII.

DIVISION 1. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Sec. 58-411. - Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-412. - Findings of fact.

- (a) The flood-prone areas within the jurisdiction of the Town of Weddington 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.
- (b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-413. - Statement of purpose.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-414. - Objectives.

The objectives of this article are to:

- (1) Protect human life, safety and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood-prone areas;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and
- (7) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-415—58-430. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 58-431. - [Defined terms.]

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application:

Accessory structure (appurtenant structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal

structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this article.

Area of shallow flooding means a designated zone AO, 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)"

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also known as the 100-year flood).

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard", establishes the "regulatory flood protection elevation".

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

Building see "Structure".

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

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

Drainage easement means an area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

Elevated building means a nonbasement building which has its lowest elevated floor raised aboveground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, structures or development into a 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) was completed before the initial effective date of the floodplain management regulations adopted by the community.

FEMA means Federal Emergency Management Agency, or its designated authority.

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

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 hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Flood-prone area see "Floodplain".

Flood zone means a geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

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

Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain development permit means any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

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.

Freeboard means the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the "regulatory flood protection elevation". Freeboard also means the vertical distance between the water level and the top of a structure, such as a dam, that impounds or restrains water.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous waste management facility means, as defined in G.S. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program"; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program".

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the state historic preservation officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

Lowest adjacent grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

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

Mean sea level means, for purposes of this article, 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 initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonencroachment 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.

Post-FIRM means construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map.

Pre-FIRM means construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map.

Principally aboveground means that at least 51 percent of the actual cash value of the structure is aboveground.

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.

Public water supply system means any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.

Recreational vehicle (RV) means a vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred 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 top of the lowest floor for structures within special flood hazard areas designated as zones A1-A30, AE, A, A99 or AO.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a violation means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected

development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

Runoff means precipitation from rain or snowfall, which flows over the ground.

Salvage yard means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to, vehicles, appliances and related machinery.

Solid waste disposal facility means any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site means, as defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in section 58-452 of this article.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

Substantial damage means damage of any origin sustained by a structure during any one-year period, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 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.

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance is a grant of relief from the requirements of this article.

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 divisions 4 and 5 is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-432—58-450. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 58-451. - Lands to which this article applies.

This article shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), of the Town of Weddington. Division 6 of this article entitled, "Drainage, Stormwater Management and Wetland Protection", shall apply to all lands within this jurisdiction, including extra-territorial jurisdictions (ETJ's), of the Town of Weddington.

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2010-06, 4-12-2010)

Sec. 58-452. - Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Union County and incorporated areas, dated February 19, 2014, which are adopted by reference and declared to be a part of the ordinance from which this article derives.

The initial flood insurance rate maps are as follows for the jurisdictional areas at the initial date: Union County Unincorporated Area, dated July 18, 1983.

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-453. - Establishment of floodplain development permit.

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 58-452 of this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-454. - Compliance.

No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this article and other applicable regulations.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-455. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-456. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit, nor repeal any other powers granted under state statutes.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-457. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This article 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 article shall not create liability on the part of the Town of Weddington or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-458. - Penalties for violation.

Violation of the provisions of this article 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 article or fails to comply with

any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 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 the Town of Weddington from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-459—58-480. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 58-481. - Designation of floodplain administrator.

The town planner, or his/her designee, hereinafter referred to as the "floodplain administrator", is hereby appointed to administer and implement the provisions of this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-482. - Floodplain development application, permit and certification requirements.

(a) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- (1) A plot plan drawn to scale which shall include, but shall not be limited to the following specific details of the proposed floodplain development:
 - a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 58-452, or a statement that the entire lot is within the special flood hazard area;
 - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 58-452;
 - d. The boundary of the floodway(s) or nonencroachment area(s) as determined in section 58-452;
 - e. The base flood elevation (BFE) where provided as set forth in section 58-452; section 58-483; or section 58-514;
 - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - g. The certification of the plot plan by a registered land surveyor or professional engineer.
- (2) Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:

- a. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure in zones AE, A or AO will be floodproofed; and
 - c. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- (3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
 - (4) A foundation plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include, but are not limited to:
 - a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 58-512(4)c., when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.
 - (5) Usage details of any enclosed areas below the lowest floor.
 - (6) 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.
 - (7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.
 - (8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 58-512(6) and (7) of this article are met.
 - (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (b) *Permit requirements.* The floodplain development permit shall include, but not be limited to:
- (1) A description of the development to be permitted under the floodplain development permit.
 - (2) The special flood hazard area determination for the proposed development in accordance with available data specified in section 58-452.
 - (3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (4) The regulatory flood protection elevation required for the protection of all public utilities.
 - (5) All certification submittal requirements with timelines.
 - (6) A statement that no fill material or other development shall encroach into the floodway or nonencroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in zones A, AO, AE or A1-30.

(8) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

(c) *Certification requirements.*

(1) Elevation certificates.

a. An elevation certificate (FEMA Form 086-0-33 (7/12)) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

b. A final as-built elevation certificate (FEMA Form 086-0-33 (7/12)) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) Floodproofing certificate. If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 086-0-33 (7/12)), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within zones A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 58-512(3)b.

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification exemptions. The following structures, if located within zones A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in subsections (c)(1) and (2) of this section:

- a. Recreational vehicles meeting requirements of subsection 58-512(6)a.;
- b. Temporary structures meeting requirements of subsection 58-512(7); and
- c. Accessory structures less than 150 square feet meeting requirements of subsection 58-512(8).

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-483. - Duties and responsibilities of the floodplain administrator.

The floodplain administrator shall perform, but not be limited to the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this article have been satisfied.
- (2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and nonencroachment areas unless the certification and flood hazard reduction provisions of section 58-516 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 and substantially improved structures, in accordance with the provisions of subsection 58-482(c).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of subsection 58-482(c).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of subsection 58-482(c).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of subsection 58-482(c) and subsection 58-512(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or nonencroachment 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 the provisions of section 58-452, obtain, review, and reasonably utilize any BFE data, along with floodway data or nonencroachment area data available from a federal, state, or other source, including data developed pursuant to subsection 58-514(2)b., in order to administer the provisions of this article.
- (12) When base flood elevation (BFE) data is provided but no floodway or nonencroachment area data has been provided in accordance with the provisions of section 58-452, obtain, review, and reasonably utilize any floodway data or nonencroachment area data available from a federal, state, or other source in order to administer the provisions of this article.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit 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 article, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- (18) Make periodic inspections throughout the 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 58-484.
- (20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 58-452 of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-484. - Corrective procedures.

(a) *Violations to be corrected:* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(b) *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:

(1) That the building or property is in violation of the floodplain management regulations;

(2) 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

(3) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(c) *Order to take corrective action:* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(d) *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.

(e) *Failure to comply with order:* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-485. - Variance procedures.

- (a) The zoning board of adjustment as established by the Town of Weddington, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.
- (b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. ch. 7A.
- (c) Variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (2) Functionally dependent facilities if determined to meet the definition as stated in section 58-431 of this article, provided provisions of subsections 58-485(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (3) Any other type of development, provided it meets the requirements of this section.
- (d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location as defined under section 58-431 of this article as a functionally dependent facility, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) 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.
- (e) A written report addressing each of the above factors shall be submitted with the application for a variance.

- (f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.
- (g) 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 that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (h) The 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.
- (i) Conditions for variances:
- (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (2) Variances shall not be issued within any designated floodway or nonencroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued prior to development permit approval.
 - (5) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-486—58-510. - Reserved.

DIVISION 5. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 58-511. - General standards.

In all special flood hazard areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

- (4) 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 to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article.
- (9) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of the ordinance from which this article derived and located totally or partially within the floodway, nonencroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972; 33 U.S.C. 1334.
- (15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-512. - Specific standards for lots recorded prior to January 10, 2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 58-452, or section 58-514, the following provisions, in addition to the provisions of section 58-511, are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article. Structures located in A, AE, AO, and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with subsection 58-517(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in subsection 58-482(c), along with the operational plan and the inspection and maintenance plan.
- (3) *Manufactured homes.*
 - a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article.
 - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
 - c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection 58-512(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.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
 - a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection

with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

- b. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
- c. Shall include, in zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - 2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 - 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - 4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 - 5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - 6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) *Additions/improvements.*

- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.
 - 2. 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 other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (6) *Recreational vehicles.* Recreational vehicles 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.
 - (7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
 - a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
 - (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 working, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall not be temperature-controlled;
 - c. Accessory structures shall be designed to have low flood damage potential;
 - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures shall be firmly anchored in accordance with the provisions of subsection 58-511(1); "Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side, shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required."
 - f. All service facilities such as electrical shall be installed in accordance with the provisions of subsection 58-511(4); and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection 58-512(4)c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above, does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 58-482(c).

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-513. - Specific standards for lots recorded on or after January 10, 2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 58-452, or section 58-514, the following provisions, in addition to the provisions of section 58-511, are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.
- (3) *Manufactured homes.* New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.
- (4) *Recreational vehicles.* Recreational vehicles 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.
- (5) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
 - a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

- c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (6) *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 working, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall not be temperature-controlled;
 - c. Accessory structures shall be designed to have low flood damage potential;
 - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures shall be firmly anchored in accordance with the provisions of subsection 58-511(1); "Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side, shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required."
 - f. All service facilities such as electrical shall be installed in accordance with the provisions of subsection 58-511(4); and
 - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection 58-512(4)c.
- An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 58-482(c).
- (7) *Recordation of lots within SFHA.* Prior to recordation of lots within the SFHA, as defined in section 58-431 of this article, the following provisions shall be met:
- a. *Lots wholly located within the SFHA:* No proposed residential building lot that is wholly located within the SFHA shall be approved.
 - b. *Lots partially located within the SFHA:*
 - 1. No proposed residential building lot that is partially located within the SFHA shall be approved unless there is established on the lot plan a contour line representing the regulatory flood protection elevation, as defined in section 58-431 of this article. All buildings or structures designed or intended for use for residential purposes shall be located on such a lot so that the lowest floor, as defined in section 58-431 of this article, shall not be below the regulatory flood protection elevation.

2. Where only a portion of a proposed lot is located within the SFHA, such lot may be approved only if there will be available for building a usable lot area of not less than 5,000 square feet. The usable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any remaining area of the lot lying within the area of the SFHA as shown on the flood insurance rate map (FIRM).

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-514. - Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in section 58-452, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 58-511, 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) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 - a. When 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 article and shall be elevated or floodproofed in accordance with standards in division 5, sections 58-511 and 58-512.
 - b. When floodway or nonencroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of division 5, sections 58-512 and 58-516.
 - c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 58-452 and utilized in implementing this article.
 - d. When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in section 58-431. All other applicable provisions of section 58-512 shall also apply.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-515. - Standards for riverine floodplains with base flood elevations but without established floodways or nonencroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source, but neither floodway, nor nonencroachment areas are identified for a special

flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of division 5, sections 58-511 and 58-512; and
- (2) Until a regulatory floodway or nonencroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-516. - Floodways and nonencroachment areas.

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in section 58-452. The floodways and nonencroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in division 5, sections 58-511 and 58-512, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit; or
 - b. A conditional letter of map revision (CLOMR) has been approved by the Town of Weddington and FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If subsection (1) above, is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (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 subsection 58-512(3); and
 - b. The no encroachment standard of subsection (1), above.
- (4) Development which causes a rise of greater than 0.00' in the FEMA base flood elevation and impacts an existing habitable building will not be allowed.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-517. - Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 58-452, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one

to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to division 5, sections 58-511 and 58-512, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection 58-517(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsection 58-482(c) and subsection 58-512(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-518. - Special provisions for subdivisions.

- (a) An applicant for a major development permit authorizing a major subdivision, and an applicant for minor subdivision final plat approval, shall be responsible for compliance with the use and construction restrictions contained in division 5 sections 58-511 through 58-517 if any portion of the land to be subdivided lies within a floodway or SFHA, as defined in section 58-431 of this article.
- (b) Final plat approval for any subdivision containing land that lies within a floodway or SFHA may not be given unless the plat shows the boundary of the floodway and SFHA and contains in clearly discernible print the following statement: "Use of land within a floodway or special flood hazard area (SFHA) is substantially restricted by the Town of Weddington Zoning Ordinance".
- (c) A major development permit for a major subdivision and final plat approval for any subdivision may not be given if:
 - (1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots;
 - (2) Any portion of one or more of the proposed lots lies within a floodway or SFHA; and
 - (3) It reasonably appears that one or more lots described in subsections (c)(1) and (c)(2) of this section could not practicably be used as a residential building site because of the restrictions set forth in this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-519. - Location of boundaries of special flood hazard areas (sfha) and floodway districts.

As used in this article, the terms SFHA and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts SFHAs shown on the maps referenced in this article, which boundaries are intended to

correspond to the actual, physical location of floodways and SFHAs. These overlay districts thus differ from other zoning districts, whose boundaries are established solely according to planning or policy, rather than physical, criteria. Therefore, the administrator is authorized to make necessary interpretations as to the exact location of the boundaries of floodways or SFHAs if there appears to be a conflict between a mapped boundary and actual field conditions.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-520. - Setbacks from streams outside designated special flood hazard areas (SFHA).

(a) Flood limits of any stream shown on the national flood insurance program flood insurance rate map (FIRM) designated as a zone A or zone AE flood hazard area shall have those limits drawn on the plat to proper scale and certified by a duly licensed professional engineer or registered land surveyor. If the stream is shown on the FIRM with flood elevations, the flooding limits are to be drawn based on the ground survey. If detailed flood elevations do not exist, the applicant may obtain a letter of map amendment (LOMA) or letter of map revision (LOMR) from the Federal Emergency Management Agency (FEMA) for use as a basis of the regulatory flood protection elevation. For lots outside of a detailed study area (zone A) as shown on the FIRM for which no LOMA or LOMR exists, and where the proposed subdivision, manufactured home park or other development is greater than five acres or has more than 50 lots/manufactured home sites, the base flood elevation data shall be calculated. In all cases, the regulatory flood protection elevation shall be set as described in this article.

For all other lots located outside of a detailed study area (zone A) as shown on the FIRM for which no LOMA or LOMR exists, a regulatory flood protection elevation shall be established as two feet above the highest adjacent drainage easement grade.

In all cases where lots are upstream from street crossings, the regulatory flood protection elevation shall be established as described in this subsection or set two feet above the low elevation of the street, whichever is greater, and shown on the plat.

(b) Drainage easements shall be established and recorded for all lots containing storm drainage pipes or channels. No structure, with the exception of a fence, shall be erected across or within a drainage easement. Fences are allowed within drainage easements provided the fence does not restrict or obstruct the natural flow of water in an open channel. The following table shall be used as a minimum for drainage easements for all open channels and streams:

- (1) Less than 25 acres: 20 feet.
- (2) Less than 50 acres: 30 feet.
- (3) Less than 75 acres: 40 feet.
- (4) Greater than 75 acres: 50 feet.

In addition, all drainage pipes shall have a minimum drainage easement width of 20 feet. The strip of land in the drainage easement to a stream or river shall be retained in its natural vegetative state unless prior approval from the zoning administrator is obtained. The values provided in subsections (b)(1) through (b)(4) of this section are intended for a guide and as a minimum and is not intended to be used in place of accepted engineering practices.

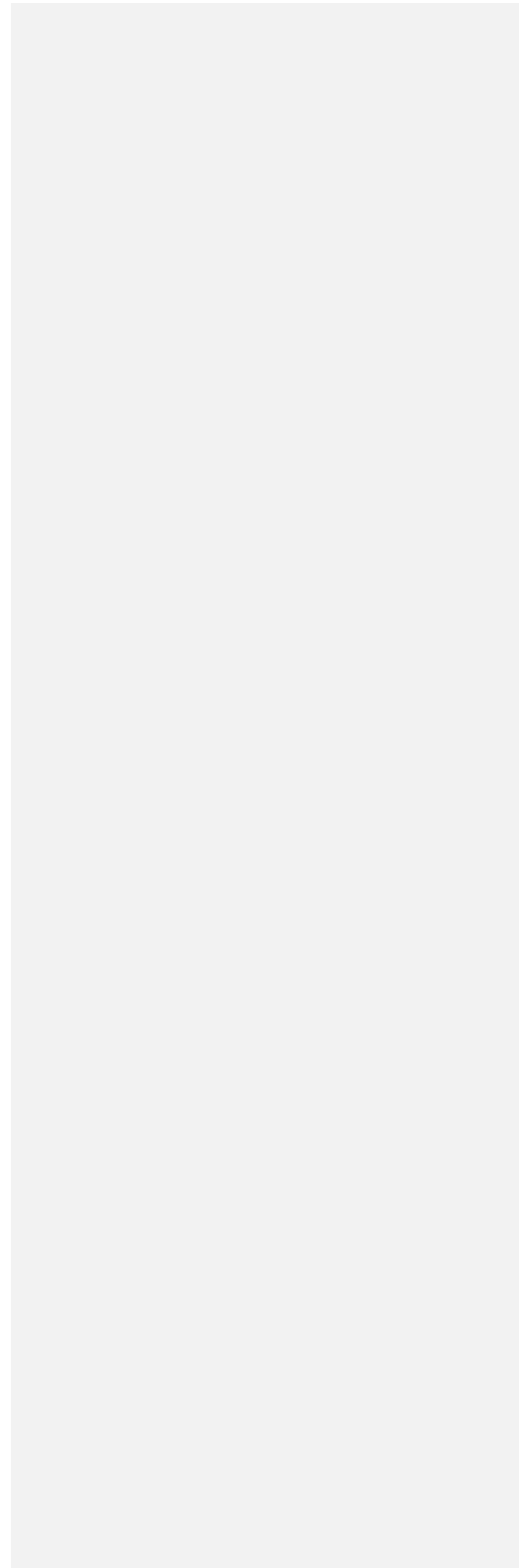
(c) Each plat containing drainage easements for watershed areas exceeding 50 acres will require the following engineering certification:

_____, a duly registered Professional Engineer, licensed in the State of North Carolina, do hereby certify that the drainage easements shown on this plat are sufficient to carry the 100-year storm runoff within the easement limits as shown.
N.C. P.E. # _____ Date _____

(Signature and Seal)

(Ord. No. O-2008-10, 10-13-2008)

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Secs. 58-521—58-540. - Reserved.

§ 160D-924. Mountain ridge protection. [reserved]

§ 160D-925. Stormwater control.

(a) A local government may adopt and enforce a stormwater control regulation to protect water quality and control water quantity. A local government may adopt a stormwater management regulation pursuant to this Chapter, its charter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a local government stormwater control regulation unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A local government may take enforcement action to compel a State or local government agency to comply with a stormwater control regulation that implements the NPDES stormwater permit issued to the local government. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a local government may take enforcement action to compel a federal government agency to comply with a stormwater control regulation.

(c) A local government may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(e) Unless the local government requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of an NPDES stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3)(1 July 2003 Edition) in its extraterritorial jurisdiction. (2019-111, s. 2.4.)

DIVISION 6. - DRAINAGE, STORMWATER MANAGEMENT AND WETLAND PROTECTION

Footnotes:

-- (5) --

Editor's note— Ord. No. O-2014-14, adopted Nov. 10, 2014, amended div. 6 in its entirety to read as herein set out. Former div. 6, §§ 58-541—58-545, pertained to similar subject matter, and derived from Ord. No. O-2008-10, adopted Oct. 13, 2008.

Sec. 58-541. - Natural drainage system utilized to extent feasible.

(a) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing manmade drainage ways shall remain undisturbed.

(b) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing manmade drainage ways within subdivisions to eliminate the creation of lots that could only be built upon by altering such drainage ways.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-542. - 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 stormwater runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(b) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from high adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

(c) No surface water may be channeled or directed into a sanitary sewer.

(d) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or adjacent streets.

(e) Private roads and access ways within non-subdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner, or if other sufficient reasons exist to require such construction.

(f) Construction specifications for drainage swales, curbs and gutters, and storm drains shall be reviewed and approved by the zoning administrator with the assistance of the town's engineering consultant, as necessary. All systems shall be designed in accordance with the Town's Stormwater Manual, as adopted, for a fully developed basin upstream based on the adopted town land use plan. Design of such systems shall be certified by a registered North Carolina professional engineer as an integral part of any permit application.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543. - General standards for stormwater management.

(a) The Town of Weddington hereby adopts and incorporates herein the provisions contained in the Charlotte-Mecklenburg Stormwater Design Manual, dated January 1, 2014, (as amended) (hereinafter referenced as the "Stormwater Manual"), with the following exceptions:

(1) Necessary deviations may be necessary to accommodate soil types found in Union County and the Town of Weddington.

(2) Rainfall data for stormwater management design calculations shall be the most current available and shall be obtained from the National Oceanic and Atmospheric (NOAA) Precipitation Frequency Data Server website.

(3) When discrepancies are found between the Stormwater Manual and the Town of Weddington zoning or subdivision regulations, the stricter regulation shall apply.

(4) The town engineer, may approve other deviations from the Stormwater Manual in unique cases where hardship is demonstrated. Any deviation is also subject to approval from the town council.

(b) All developments shall be constructed and maintained so that properties are not unreasonably burdened with stormwater runoff as a result of such developments. More specifically:

(1) All nonresidential development and all major residential development creating more than 20,000 square feet of new impervious area shall provide stormwater detention to control the peak stormwater runoff from the 2, 10, 25, 50 and 100 year, 24-hour storm events to pre-development rates. Stormwater volume control shall also be provided for the 1-year, 24-hour storm. Design of facilities shall be consistent with the Stormwater Manual except as stated herein.

(2) All developments with impervious area existing on or before November 13, 2014 shall provide detention only for any newly created impervious area.

(3) Minor residential subdivisions and individual single-family residences are exempt from requirements of this section.

(4) Stormwater management facilities shall not be located within 20 feet of any property lines.

(5) A registered North Carolina professional engineer shall certify documents demonstrating that construction of the project or subdivision will not increase the rate of runoff from the site nor cause any adverse impacts on downstream facilities or property.

(6) Where stormwater management facilities are proposed to be constructed, the owners, heirs, assigns or successors of the land, including any homeowners associations, will agree to perpetual maintenance of the facility and will release and hold harmless the Town of Weddington from any liability, claims, demands, attorney's fees, and costs or judgments arising from said facility. At a minimum, the facility will be inspected by a registered North Carolina professional engineer on a yearly basis and the annual inspection report submitted by the owner to the zoning administrator for purposes of compliance.

(7) An evaluation of any dam that is part of a stormwater management facility shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review, if required.

(8) No certificate of compliance or release of performance bond funds shall be issued for any development until a registered land surveyor has surveyed the as-built storm drainage and stormwater management facilities and the revised calculations have been submitted to and approved by the Town of Weddington. The revised calculations must be sealed by a registered North Carolina professional engineer. In addition, the town shall not grant final plat approval unless the town engineer has approved the plans, and the town has approved the as-built detention plans and/or a performance bond has been secured.

(9) A permanent drainage easement that encompasses the facility shall be shown on a recorded plat, along with an access easement from the facility to a public right-of-way. This easement will be described by metes and bounds on the plat.

(10) There will be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the stormwater management facilities, pipes, and/or channels located within the permanent facility.

(11) Required drainage easements for streams shall be provided as described in zoning ordinance section 58-338, "Setbacks from streams".

(12) Applicants proposing new development within the downtown overlay district (section 58-272) may propose an alternative stormwater management plan, provided the proposal includes a regional stormwater management pond that serves a development area of nine acres or more. At a minimum, the proposed plan must detain peak stormwater runoff for the 2-year, 10-year, and 25-year, 6-hour storms, and provide 0.5 feet of freeboard during the 50 and 100-year storm events. The regional stormwater pond must be approved by the town council in accordance with the conditional zoning approval process described in section 58-271.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

Sec. 58-543.1. - Requirements for stormwater management plan approval.

(a) *Stormwater management plan required for all developments.*

(1) No conditional use, vested rights, rezoning, or zoning application for nonresidential uses or preliminary subdivision plat for residential or nonresidential uses will be considered as complete unless it includes a stormwater management plan detailing in concept how runoff resulting from the development will be controlled or managed. Preliminary informational meetings with the town zoning administrator or the planning board may be allowed without a complete stormwater management concept plan.

(2) No zoning permit or final plat approval shall be issued until a satisfactory final stormwater management plan has been reviewed and approved by the town upon determination that the plan is consistent with the requirements of this division.

(3) All costs for the town's engineering review of the stormwater management concept plans and final plans shall be borne by the owner/developer.

(b) *Stormwater management concept plan requirements.* A stormwater management concept plan shall be required with all permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site on water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The information provided shall meet the design requirements of the Stormwater Manual. The following items are required to be submitted for review of the stormwater management concept plan:

(1) Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; proposed open space area; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography,

wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers, and other setbacks. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(3) A written or graphic concept plan of the proposed post-construction stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of proposed open space areas; location of all floodplain/floodway limits; relationship of the site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(4) Preliminary selection and rationale for any structural stormwater management practices along with sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the Town of Weddington Stormwater Management Ordinance and the specifications of the Stormwater Manual.

(5) A note acknowledging responsibility for the operation and maintenance of any stormwater management facility, and that such obligation shall be disclosed to future owners.

(c) *Final stormwater management plan requirements.* After review of the stormwater management concept plan and modifications to that plan as deemed necessary by the town, a final stormwater management plan shall be submitted for approval. The final stormwater management plan shall detail how post-construction runoff will be controlled, managed and maintained in perpetuity, and how the proposed project will meet the requirements of this division. All such plans shall conform to the design requirements of the Stormwater Manual and shall be prepared by a North Carolina licensed professional engineer. The plan submittal shall include all of the information required in the submittal checklist established by the zoning administrator.

(d) *Performance bond/security.*

(1) The Town of Weddington may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater management facilities are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 50 percent. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

(2) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered North Carolina professional engineer that the detention facility has been installed in accordance with the approved plan and other applicable provisions of this division.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.2. - Maintenance of stormwater facilities.

(a) *General standards for maintenance.* The owner, its successors and assigns, including any homeowners association, of a stormwater management facility installed pursuant to this division shall maintain and operate the practice so as to preserve and continue its function in controlling stormwater runoff at the degree or amount of function for which the facility was designed.

(b) Operation and maintenance agreement.

(1) Prior to the conveyance or transfer of any lot or building site to be served by a stormwater control facility pursuant to this division, and prior to issuance of any permit for development requiring a stormwater control facility pursuant to this division, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the facility. Until the transference of all property, sites or lots served by facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the stormwater control facility, and shall state the terms, conditions and schedule of maintenance for facility. In addition, it shall grant to the town a right of entry in the event that the town administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the facility; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the facility.

(3) A maintenance plan must be attached as an addendum to the operation and maintenance agreement which identifies the specific maintenance activities to be performed for each facility. The operation and maintenance agreement and maintenance plan templates to be completed may be obtained from the Town of Weddington. The operation and maintenance agreement must be approved by the town administrator prior to construction plan approval. The agreement shall be referenced on the final plat and recorded with the county register of deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the town administrator within 14 days following its recordation.

(4) For all stormwater management facilities required pursuant to this division, the required operation and maintenance agreement provided by the owner, homeowner's association, or similar entity, shall include all of the following provisions:

a. Acknowledgment that the owner or association shall continuously operate and maintain the stormwater management facilities.

b. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. If stormwater management facilities are not performing adequately or as intended or are not properly maintained, the Town of Weddington, in its sole discretion, may remedy the situation, and in such instances the Town of Weddington shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the owner or association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the stormwater management facilities provided that the Town of Weddington shall first consent to the expenditure.

c. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the stormwater management facilities. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the stormwater management facilities. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the owner or association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

d. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Weddington depending on the design and materials of the stormwater control and management facility.

e. Granting to the Town of Weddington a right of entry to inspect, monitor, maintain, repair and reconstruct stormwater management facilities.

f. Allowing the Town of Weddington to recover from the owner or association and its members any and all costs the Town of Weddington expends to maintain or repair the stormwater management facilities or to correct any operational deficiencies. Failure to pay the Town of Weddington all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Weddington shall thereafter be entitled to bring an action against the owner or the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs and attorney fees shall be added to the recovery.

g. A statement that this agreement shall not obligate the Town of Weddington to maintain or repair any stormwater management facilities, and the Town of Weddington shall not be liable to any person for the condition or operation of stormwater management facilities.

h. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Weddington to enforce any of its ordinances as authorized by law.

i. A provision indemnifying and holding harmless the Town of Weddington for any costs and injuries arising from or related to the stormwater management facilities, unless the Town of Weddington has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(c) *Maintenance easement.* Prior to approval of the final stormwater management plan, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land, including any homeowners associations, served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Weddington, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this division. The easement agreement shall be recorded in the Union County Register of Deeds land records.

(d) *Inspections.* The person responsible for maintenance of any stormwater management facility installed pursuant to this division shall submit to the zoning administrator an annual inspection report from a qualified, registered North Carolina professional engineer performing services only in their area of competence during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to provide the inspection report may result in enforcement and penalties described in section 58-3. The inspection report shall contain all of the following:

(1) The name and address of the land owner;

(2) The recorded book and page number of the lot of each stormwater management facility;

(3) A statement that an inspection was made of all stormwater management facilities;

(4) The date the inspection was made;

(5) A statement that all inspected stormwater facilities are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this division; and

(6) The original signature and seal of the engineer. An original inspection report shall be provided to the zoning administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(e) *Records of installation and maintenance activities.* The owner, its successors and assigns, including any homeowners association, of each stormwater management facility shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the zoning administrator.

(f) *Nuisance.* The owner, its successors and assigns, including any homeowners association, of each stormwater management facility, shall maintain it so as not to create a nuisance condition.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-16, 11-9-2015; Ord. No. O-2016-01, 3-14-2016)

Sec. 58-543.3. - Enforcement and violations.

(a) *General.*

(1) The provisions of this division shall be enforced by the zoning administrator, his or her designee, or any authorized agent of the Town of Weddington. Whenever this section refers to the zoning administrator, it includes his or her designee as well as any authorized agent of the Town of Weddington.

(2) Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this division, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this division, is unlawful and shall constitute a violation of this division.

(3) Each day that a violation continues shall constitute a separate and distinct violation or offense.

(4) Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, detention facility, stormwater management facility, practice, or condition in violation of this division, as well as any person who participates in, assists, directs, creates, causes or maintains a condition that results in or constitutes a violation of this division, or fails to take appropriate action, so that a violation of this division results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. For the purposes of this article, responsible person(s) shall include but not be limited to:

a. Person maintaining condition resulting in or constituting violation;

b. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this division, or fails to take appropriate action, so that a violation of this division results or persists;

c. Responsibility for land or use of land;

d. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater management practices pursuant to a private agreement or public document, and any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(b) *Inspections and investigations by the town.*

(1) Inspections by the Town of Weddington may be conducted or established on any reasonable basis, including but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in detention facility; and evaluating the condition of detention facility.

(2) The zoning administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this division, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No person shall refuse entry or access to the zoning administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with the zoning administrator while in the process of carrying out official duties. The zoning administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.4. - Remedies and penalties.

General. The remedies and penalties provided for violations of this division, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(1) *Remedies.*

a. The zoning administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

b. As long as a violation of this division continues and remains uncorrected, the zoning administrator or other authorized agent may withhold, and the town planning board may disapprove, any request for permit or development approval or authorization provided for by this division or the zoning ordinance for the land on which the violation occurs.

c. The zoning administrator, with the written authorization of the town council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this division. Any person violating this division shall be subject to the full range of equitable remedies provided in the North Carolina General Statutes or at common law.

d. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. 160A-193, the zoning administrator, with the written authorization of the town council may cause the violation to be corrected and the costs to be assessed as a lien against the property.

e. The zoning administrator may issue a stop work order to the person(s) violating this division. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work

order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(2) *Civil penalties.* Violation of this division may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the zoning administrator. Civil penalties may be assessed up to the full amount allowed by law.

(3) *Criminal penalties.* Violation of this division may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.5. - Procedures.

(a) *Initiation/complaint.* Whenever a violation of this division occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the zoning administrator, who shall record the complaint. The complaint shall be investigated promptly by the zoning administrator.

(b) *Inspection.* The zoning administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this division.

(c) *Notice of violation and order to correct.*

(1) When the zoning administrator finds that any building, structure, or land is in violation of this division, the zoning administrator shall notify, in writing, the property owner or other person violating this division. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The zoning administrator may deliver the notice of violation and correction order personally, by the (Town of Weddington Code Enforcement Officer), by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the zoning administrator may take appropriate action under this division to correct and abate the violation and to ensure compliance with this division.

(d) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the zoning administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the zoning administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 90 days. The zoning administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this division. The zoning administrator may grant an extension only by written

notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(e) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the zoning administrator, the zoning administrator shall determine if the violation is corrected. If the violation is not corrected, the zoning administrator may act to impose one or more of the remedies and penalties authorized by this division.

(f) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this division or pose an immediate danger to the public health, safety or welfare, then the zoning administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The zoning administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-544. - Wetlands.

All developments shall fully comply with the state and federal requirements of Sections 401 and 404 of the Clean Water Act, related to the protection of wetlands and surface waters. All developments shall obtain any required permits from the United States Army Corps of Engineers, pursuant to Section 404 before submitting a permit application. When required, water quality certifications must also be obtained from the North Carolina Department of Environment and Natural Resources, Division of Water Quality, pursuant to Section 401 of the Clean Water Act before submitting a permit application.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-545. - Pond evaluation.

(a) All preliminary plats that include proposed permanent ponds, and all preliminary plats that include stormwater runoff to any existing permanent ponds, shall be subject to the review of the state dam safety engineer. An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review.

(b) All existing ponds shall be evaluated and rehabilitated as necessary to ensure that the ponds will safely withstand the 50-year storm with a minimum of 0.50 feet of freeboard at the dam. Design calculations shall be based upon the existing built upon conditions for areas of the drainage basin within the town's jurisdiction. Design calculations shall assume future buildout conditions for any non-town jurisdictional areas within the drainage basin.

(c) All proposed ponds which are constructed to meet stormwater detention requirements shall be designed as described in section 58-543.

(d) All proposed ponds constructed for uses other than complying with detention requirements, such as for recreational use only, shall be designed to withstand the 100-year storm with a minimum of 1.0 feet of freeboard at the dam. Design calculations assumptions shall be the same as the existing pond evaluation criteria as described above.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

Sec. 58-546. - NPDES Stormwater Program Phase II (Post Construction Stormwater Management).

(a) Development and redevelopment projects within the Town of Weddington must apply to the NC Department of Energy, Mineral and Land Resources for a state stormwater permit. Written approval from the state shall be required prior to town approval of proposed development.

(b) The requirements for post-construction stormwater management apply to developments in which the total land disturbance is one acre or more. The NPDES program classifies development into two categories: low-density and high density. Both categories of projects require a permit. Project design requirements are shown in Section 9 of S.L. (Session Law) 2006-246. Exclusions from post-construction practices are shown in Section 8.

(c) New development activities within the Sixmile Creek Watershed are subject to more stringent requirements as a result of an administrative law judge ruling and environmental management commission (EMC) decisions relating to the protection of the Carolina Heelsplitter, an endangered species. NCDENR policies shall govern development in this watershed and specific requirements should be verified with state personnel.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-547. - Definitions

When used in this division, the following words and terms shall have the meaning set forth in this section, unless other provisions of this division specifically indicate otherwise:

Built-upon area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Detention. The temporary storage of stormwater runoff in a stormwater management practice with the goals of controlling peak discharge rates and discharge volume.

Development. Any land-disturbing activity that increases the amount of built upon area or that otherwise decreases the infiltration of precipitation into the soil.

Drainage easement. An area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

Floodplain. The one percent annual chance floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management.

Freeboard. The elevation difference between the full pond and the crest of the dam embankment. Freeboard protects the bank from wave action and overtopping under high-intensity rainfall.

Impervious area. Surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, gravel surfaces, sidewalks, driveways, etc.).

New impervious area. Impervious area created after November 13th, 2014.

Runoff. The excess precipitation from rain or snowfall which flows over the ground.

Stormwater management facility. A physical device designed to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics to approximate the pre-development hydrology on a

developed site. "Stormwater management facility" is synonymous with "stormwater control facility", "stormwater management practice", "detention facility", "BMP", and similar terms used in this division.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

Secs. 58-548—58-565. - Reserved.

DIVISION 7. - LEGAL STATUS PROVISIONS

Sec. 58-566. - Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 8, 1987 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 the ordinance from which this article derived shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Weddington enacted on April 8, 1987, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Union County is July 18, 1983.

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-567. - Effect upon outstanding floodplain development permits.

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

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-568. - Severability.

If any section, clause, sentence or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this article.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-569—58-600. - Reserved.

§ 160D-926. Water supply watershed management.

A local government may enact and enforce a water supply watershed management and protection regulation pursuant to G.S. 143-214.5 and shall comply with all applicable provisions of that statute and, to the extent not inconsistent with that statute, with this Chapter. (2019-111, s. 2.4.)

Commented [KB6]: Reserved?

§ 160D-927. Reserved for future codification purposes.

§ 160D-928. Reserved for future codification purposes.

§ 160D-929. Reserved for future codification purposes.

Part 3. Wireless Telecommunication Facilities.

§ 160D-930. Purpose and compliance with federal law.

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(b) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(c) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(d) Nothing in this Part shall be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. (2019-111, s. 2.4.)

§ 160D-931. Definitions.

The following definitions apply in this Part:

- (1) Antenna. - Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2) Applicable codes. - The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

- (3) Application. - A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.
- (4) Base station. - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (5) Building permit. - An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-1110.
- (6) City right-of-way. - A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.
- (7) City utility pole. - A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.
- (8) Collocation. - The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.
- (9) Communications facility. - The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.
- (10) Communications service. - Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.
- (11) Communications service provider. - A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.
- (12) Eligible facilities request. - A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- (13) Equipment compound. - An area surrounding or near the base of a wireless support structure within which a wireless facility is located.
- (14) Fall zone. - The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (15) Land development regulation. - Any ordinance enacted pursuant to this Chapter.
- (16) Micro wireless facility. - A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
- (17) Search ring. - The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (18) Small wireless facility. - A wireless facility that meets the following qualifications:
 - a. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.

- b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.
- (19) Substantial modification. - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:
- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
 - b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
 - c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- (20) Utility pole. - A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.
- (21) Water tower. - A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.
- (22) Wireless facility. - Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:
- a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
 - b. Wireline backhaul facilities.
 - c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (23) Wireless infrastructure provider. - Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.
- (24) Wireless provider. - A wireless infrastructure provider or a wireless services provider.

- (25) Wireless services. - Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.
- (26) Wireless services provider. - A person who provides wireless services.
- (27) Wireless support structure. - A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure. (2019-111, s. 2.4.)

§ 160D-932. Local authority.

A local government may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a local government from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160D-930. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (2019-111, s. 2.4.)

§ 160D-933. Construction of new wireless support structures or substantial modifications of wireless support structures.

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and development regulation jurisdiction of a local government must do both of the following:

- (1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
- (2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(b) A local government's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the local government may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A local government may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A local government may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the local government may review the following:

- (1) Applicable public safety, land-use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility

placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service.

- (3) A local government may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Local governments may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(c) The local government shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other development approvals in the case of other applications, each as measured from the time the application is deemed complete.

(d) A local government may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a local government on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the local government in connection with the regulatory review authorized under this section. The foregoing does not prohibit a local government from imposing additional reasonable and cost-based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a local government for review of the application may not be used for either of the following:

- (1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.
- (2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(e) The local government may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A local government shall not deny an initial development approval based on such documentation. A local government may condition a development approval on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(f) The local government may not require the placement of wireless support structures or wireless facilities on local government owned or leased property but may develop a process to encourage the placement of wireless support structures or facilities on local government owned or leased property, including an expedited approval process.

(g) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to this Article. (2019-111, s. 2.4.)

§ 160D-934. Collocation and eligible facilities requests of wireless support structures.

(a) Pursuant to section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a local government may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A local government may require an application for collocation or an eligible facilities request.

(b) A collocation or eligible facilities request application is deemed complete unless the local government provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A local government may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A local government may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(c) The local government shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the local government shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(d) A local government may impose a fee not to exceed one thousand dollars (\$1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A local government may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a local government for the review of the application may not be used for either of the following:

- (1) Travel expenses incurred in a third-party review of a collocation application.
- (2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement. (2019-111, s. 2.4.)

§ 160D-935. Collocation of small wireless facilities.

(a) Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) A city may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

(c) Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.

(d) A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:

- (1) A city may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.

- (2) The wireless provider shall complete an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
- (3) A permit application shall be deemed complete unless the city provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed-upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.
- (4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.
- (5) A city may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment, (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or (iv) the historic preservation requirements in G.S. 160D-936(i). The city must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.
- (6) An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. A city may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The city may issue a separate permit for each collocation that is approved.
- (8) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(e) Subject to the limitations provided in G.S. 160A-296(a)(6), a city may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities, (ii) the amount charged by the city for permitting of any similar activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(f) Subject to the limitations provided in G.S. 160A-296(a)(6), a city may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city for the review of the application shall not be used for either of the following:

- (1) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
- (2) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(g) A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the city reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) A city shall not require an application or permit or charge fees for (i) routine maintenance, (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

(i) Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way. (2019-111, s. 2.4.)

§ 160D-936. Use of public right-of-way.

(a) A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of G.S. 160D-935, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city

utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under G.S. 160D-935(d) if the wireless provider meets all of the following requirements:

- (1) Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
- (2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.

(d) Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.

(e) Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed 40 feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

(f) Except as provided in this Part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:

- (1) The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
- (2) The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.
- (3) The right-of-way charge shall be reasonable and nondiscriminatory.

Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(g) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(h) A city may require a wireless provider to repair all damage to a city right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, city utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the city within a reasonable time after written notice, the city may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The city may maintain an action to recover the costs of the repairs.

(i) This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 4 of Article 9 of this Chapter, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. §

1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.

(j) A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-way, to support the collocation of small wireless facilities. A city shall accept and process the application in accordance with the provisions of G.S. 160D-935(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application. (2019-111, s. 2.4.)

§ 160D-937. Access to city utility poles to install small wireless facilities.

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) If a city that operates a public enterprise as permitted by Article 16 of Chapter 160A of the General Statutes has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior

damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(h) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, "excluded entity" means (i) a city that owns or operates a public enterprise pursuant to Article 16 of Chapter 160A of the General Statutes consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended. (2019-111, s. 2.4.)

§ 160D-938. Applicability.

(a) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.

(d) Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way. (2019-111, s. 2.4.)

§ 160D-939. Reserved for future codification purposes.

ARTICLE X. - TELECOMMUNICATION TOWERS

Sec. 58-291. - Intention

In recognition of the Telecommunications Act of 1996, it is the intent of the town to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in

order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of the town and its extraterritorial jurisdiction. Wireless towers may be considered undesirable with other types of uses, most notably residential; therefore special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

(Ord. No. 87-04-08, § 13.1, 4-8-1987)

Sec. 58-292. - Maximum height.

The maximum allowable height of a tower is 185 feet. No tower shall have a height greater than 185 feet unless the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e., cannot provide a reasonable level of service in the area).

(Ord. No. 87-04-08, § 13.2, 4-8-1987)

Sec. 58-293. - Co-location.

It is the intent of the town to encourage providers to co-locate facilities in an effort to reduce the number of telecommunication towers in the town's jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers. The town requires providers to negotiate in good faith with other wireless communication carriers to lease space at a reasonable cost, and to publicize, either in the newspaper and/or online, the fact that space is available on a leased basis. Co-location of antennas on existing electrical transmission towers may be approved administratively by the zoning officer. For electrical transmission towers, any required accessory structures on the ground must comply with a 15-foot setback from the utility easement line.

(Ord. No. 87-04-08, § 13.3, 4-8-1987; Ord. No. O-2009-06, 7-13-2009)

Sec. 58-294. - Requirements for lots with existing use.

Where a telecommunication tower is located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least 12 feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of 20 feet is required between structures.

(Ord. No. 87-04-08, § 13.4, 4-8-1987)

Sec. 58-295. - Compliance with federal standards.

The town recognizes that a tower cannot be prohibited, nor can a conditional zoning permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The town requires that the applicant must provide documentation proving that the proposed tower complies with the Federal Radio Frequency Emission Standards.

(Ord. No. 87-04-08, § 13.5, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-296. - Accessory structures.

Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the neighborhood's basic architecture or the architecture and style of the principal use on the property.

(Ord. No. 87-04-08, § 13.6, 4-8-1987)

Sec. 58-297. - Screening.

Screening is required in the form of shrubs and/or trees along all sides of the perimeter of the telecommunication tower site as per section 58-8. In addition, a minimum eight-foot-high fence is required immediately around the tower and any equipment buildings, with the screening to be located on the outside of the fenced area. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property and any tenant on the property where screening is required shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Applicants that are building new towers with co-location opportunities shall plan the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future structures and the tower.

(Ord. No. 87-04-08, § 13.7, 4-8-1987)

Sec. 58-298. - Setback requirements.

A minimum setback requirement, on all sides of the property, or leased area of a parcel, shall be 1½ feet for every one foot of actual tower height, or the documented collapse zone, whichever is greater. For the purpose of establishing setbacks, the measurements shall be from the perimeter fencing which surrounds the equipment shelters and the tower base. No habitable structures shall be within the required setback area.

(Ord. No. 87-04-08, § 13.8, 4-8-1987)

Sec. 58-299. - Lighting.

Towers having a height of 185 feet or less shall not contain lights or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.

(Ord. No. 87-04-08, § 13.9, 4-8-1987)

Sec. 58-300. - Abandonment of tower.

Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than 90 consecutive days. It shall

be the responsibility of the applicant to notify the town when the tower has been abandoned for greater than 90 days.

(Ord. No. 87-04-08, § 13.10, 4-8-1987)

Sec. 58-301. - Increasing tower height.

Normal maintenance and repair of the structure can be completed without the issuance of a conditional zoning permit. Co-location of additional providers to an existing tower or an upgrade of the equipment on an existing tower requires review and approval by the zoning officer to ensure the tower will continue to satisfy this ordinance and other applicable requirements. Notwithstanding any other language in this section, any change to an existing tower that will increase the tower's height, alter the tower's lighting, or alter the painting or exterior appearance of the tower requires the issuance of a new conditional zoning permit for the tower.

(Ord. No. 87-04-08, § 13.11, 4-8-1987; Ord. No. O-2006-10, 6-12-2006; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-302. - Freestanding signs.

Freestanding signs are prohibited. Wall signs, limited to identification area, shall be allowed on equipment structures or fences surrounding the telecommunication tower, provided it does not exceed nine square feet in size. Any signage must be specifically addressed in the conditional zoning application and permit.

(Ord. No. 87-04-08, § 13.12, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-303. - Proof of insurance.

The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional zoning permit. Once approved, documentation of adequate insurance must be provided to the town every 12 months.

(Ord. No. 87-04-08, § 13.13, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-304. - Storage of equipment.

The outdoor storage of equipment or other related items is prohibited.

(Ord. No. 87-04-08, § 13.14, 4-8-1987)

Sec. 58-305. - Conditional zoning permit application requirements.

All applications for a conditional zoning permit for a telecommunication tower must include the following information, in addition to any other applicable information contained in this chapter:

- (1) Identification of intended provider;
- (2) Radiated signal strength and direction of signal;

- (3) Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user;
- (4) A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated;
- (5) Evidence that the property owners of residentially zoned property within 300 feet of the site, in addition to adjacent property owners, have been notified by the applicant within 14 days of the public hearing. This notification should include the date and time of the public hearing, as well as the proposed tower height and design;
- (6) Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
- (7) Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings and location;
- (8) Documentation of collapse area; and
- (9) Documentation that the provider has explored all means for stealth tower locations and co-location opportunities, which must accompany requests for new towers.

(Ord. No. 87-04-08, § 13.15, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Secs. 58-306—58-328. - Reserved.

ARTICLE XI. - SMALL CELL TELECOMMUNICATIONS FACILITIES²⁴

Footnotes:

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editor's note— Ord. No. O-2008-10, adopted Oct. 13, 2008, amended in its entirety former art. XI, §§ 58-329—58-343, which pertained to floodplains, drainage, stormwater management and wetland protection and derived from Ord. No. 87-04-08, §§ 14.1—14.14, adopted Apr. 8, 1987; and Ord. No. O-2006-11, adopted July 10, 2006. Furthermore Ord. No. O-2008-10, adopted Oct. 13, 2008, set out provisions intended for use as art. XI. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as art. XIII. See Code Comparative Table. Subsequently, Ord. No. O-2017-10, adopted June 12, 2017, enacted a new Art. XI as set out herein.

Sec. 58-329. - Requirements.

Small cell telecommunications facilities are a permitted use in nonresidential zoning districts and in residentially zoned properties with a nonresidential use after review by the town zoning administrator, except as specified in subsection (8) below. The following standards apply:

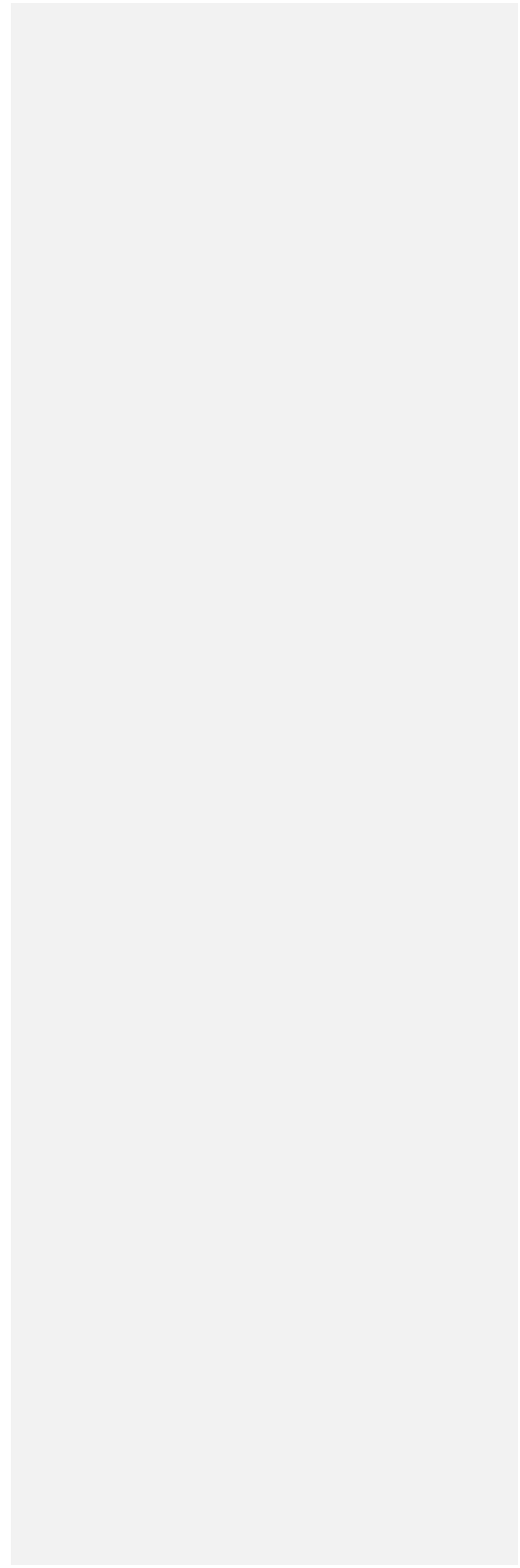
- (1) A small cell antenna may be installed on a support structure on privately held land at a height of at least 15 feet on an existing nonresidential or mixed use structure.
- (2) Unstaffed equipment that is accessory to antennas may be located on a support structure, within a building, within an equipment cabinet outside a building, or on a rooftop.

- a. Ground equipment shall have a maximum footprint of ten square feet with a maximum height of four feet and must be located and installed in accordance with the applicable setbacks within the zone the property is classified.
 - b. Rooftop equipment may be installed on privately owned land under the following conditions:
 - 1. At a height of at least 15 feet on an existing nonresidential or mixed use structure in any zone.
 - 2. Equipment cabinets shall have a maximum footprint of 36 square feet with a maximum height of five feet, in combination with all other roof structures may not occupy more than 25 percent of the roof area, and must be screened.
 - c. Equipment may be installed on a support structure on privately owned land under the following conditions:
 - 1. At a height of at least 15 feet on an existing nonresidential or mixed use structure.
 - 2. Equipment cabinets shall have a maximum size of 20 cubic feet with a maximum height of four feet.
- (3) In residential areas small cell facilities shall be integrated into the architecture of the structure on which it is placed, landscaped to minimize visual impact, and subject to the zoning administrator's approval.
- (4) An installation of a small cell facility that does not increase the size or height of the support structures, excluding antennas, by more than 20 percent is permitted provided the expansion does not create a public health hazard, as defined by federal law or regulations, or safety concern.
- (5) No lighting of any part of the small cell facility is permitted. No small cell facility may be placed on any structure where the new antenna array would be required to be lighted to meet FAA regulations.
- (6) Small cell facilities are permitted in state or local rights-of-way as a public utility.
- (7) No small cell facility may be more than 50 feet tall as measured from ground level.
- (8) A small cell facility that increases the size or height of the support structure by more than 20 percent is approvable by the planning board under the following conditions:
 - a. The applicant shall provide, by mail or personal delivery, written notice in a form approved by the zoning administrator to owners of property abutting and confronting the property that is the subject of the request within two business days of filing the request and shall certify the same to the zoning administrator.
 - b. The applicant shall demonstrate that the expansion of the support structure is integrated into the surrounding area and limits the visual impact to the maximum extent possible.
 - c. The expansion of the support structure does not create a public health hazard as defined by federal law or regulations, or safety concern.

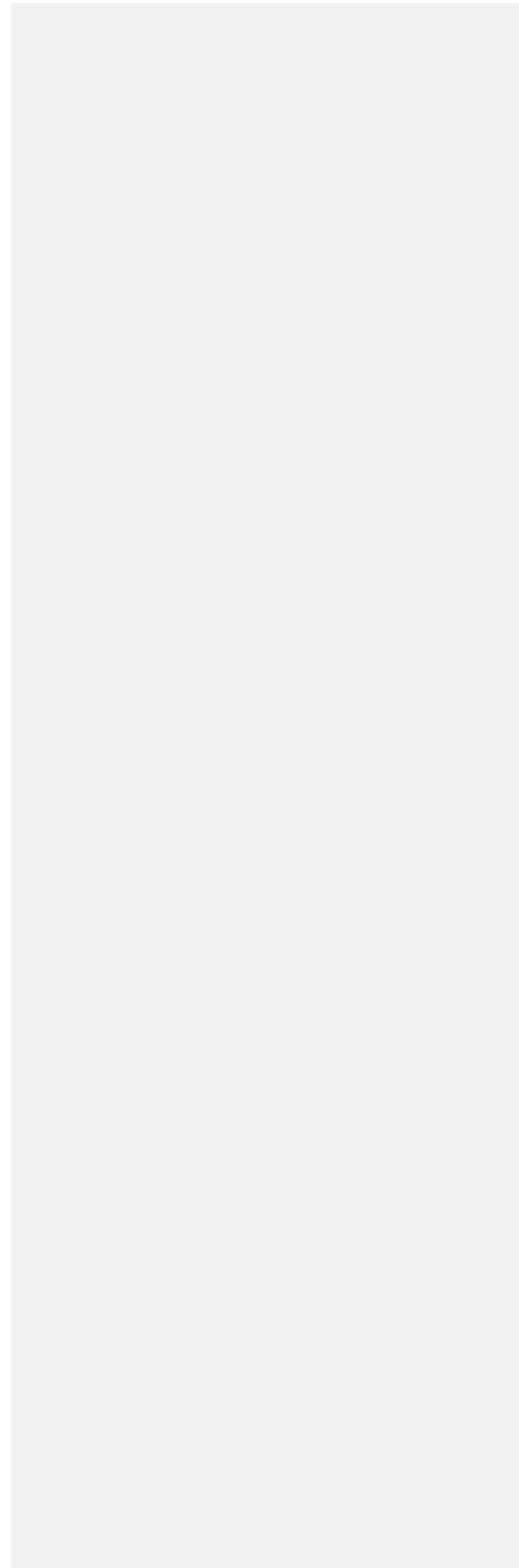
(Ord. No. O-2017-10, 6-12-2017)

Secs. 58-330—58-372. - Reserved.

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D-920 Additional Supplemental Regulations for Particular Uses

- Planned Residential Development [?]
- Required Improvements, Dedication, Reservation and Minimum Standards for Residential Development [Weddington 46-72 – 46-79]
- Customary Home Occupations [Weddington 58-7]
- Land Application of Biosolids [Weddington 58-373-58-383]
- Additional review requirements for certain uses [Weddington 58-88]

D-921 General Requirements

- Screening and landscaping [Weddington 58-8]
- Fences and Walls [Weddington 58-9]
- Lot to Abut a Street; Exceptions [Weddington 58-10]
- One principal building permitted on single lot [Weddington 58-11]
- Visibility at intersections [Weddington 58-12]
- Temporary structures and uses [Weddington 58-13]
- Height Exemption [Weddington 58-14]
- Accessory uses and structures [Weddington 58-16]
- Outdoor lighting [Weddington 58-17]
- Lighting [Weddington 14-81-14-92]
- Architectural Standards [non-residential] [Weddington 14-101-101-102]
- Signs [Weddington 58-144- 58-153]
- Off-street parking [Weddington 58-175- 58-176]