

Appendix 1 Definitions

Definitions.

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

Abandonment means:

- (1) A use that has been discontinued for a consecutive period of 180 days;
- (2) When the premises of a particular use are devoted to another use;
- (3) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days; or
- (4) Failure to take all positive action to resume the nonconforming use with reasonable dispatch, including the failure to advertise the property for sale or lease.

Accessory family dwelling means 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 different person(s) than those who generally occupy and use the property's primary dwelling.

Accessory use means a use clearly incidental and subordinate to the principal use.

Adaptive reuse refers to the process of reusing a site or building for a purpose other than that for which it was originally intended.

Administrator means the person designated by the town council to administer this UDO and to undertake other duties as called for in this UDO.

Adult establishment means a use meeting the definition of "adult establishment" in G.S. 14-202.10(2), which is hereby adopted by reference. The term "adult establishment" includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses, and massage businesses, as those uses are defined in G.S. 14-202.10, which is hereby adopted by reference. However, this term does not include massage businesses where all applicable employees meet the ethical and educational requirements specified by the American Massage Therapy Association or equivalent national or state standards.

Agricultural uses means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to, forages and sod crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, including grapes, nuts and berries, vegetables, nursery, floral and ornamental products, or lands devoted to a soil conservation or forestry management program. The term "agricultural use" does not include a horse farm or academy, as herein defined, or the keeping of any nondomesticated animals. As used herein, the term "nondomesticated animals" shall mean any animal not generally associated with the practice of animal husbandry and which are a threat to humans or are commonly perceived to be a threat to humans. Examples of such animals include great cats, wolves and bears.

Agritourism means an agricultural, horticultural or agribusiness operation primarily devoted to the promotion of tourism of said operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation; provided that said use produces revenues or attracts tourists.

Airport means an area of land or water that is designed or used on a recurring basis for the landing and takeoff of aircraft, ultra-lights, other mechanical aircraft, or other flying apparatuses, whether or not so designated by the Federal Aviation Authority (FAA), excluding hot air balloons.

Alteration means a change in the size, configuration, or location of a structure, or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location or use.

Amateur radio tower means a freestanding or building-mounted structure, including any base, tower, pole, antenna and appurtenances, intended for amateur radio (HAM) airway communication purposes.

Athletic fields means designated areas in which sports and other outdoor recreational play activities occur. The term "athletic fields" includes ballparks, soccer fields, and any other outdoor recreational nonwater, nonclay or asphalt court related activities.

Barn means a building that is accessory to a residential or agricultural use and that is used exclusively for storage of grain, hay and other farm products and/or the sheltering of livestock or farm equipment.

Billboard means a permanently constructed sign structure composed of one or more large surfaces for permanent or changeable messages, supported by one or more vertical posts and generally used for off-premises advertising.

Biosolids means the nonhazardous waste or residuals generated and treated at a wastewater treatment facility or water treatment facility. The term is synonymous with the terms "septage" and "sludge", as defined by G.S. 130A-290. The term "biosolids" includes solid, semisolid or liquid residue generated during the treatment of domestic sewage in a treatment works and any material derived from such sewage sludge. These materials must be managed in accordance with permits issued by the state department of environment and natural resources.

Block means a piece of land bounded by streets or roads.

Building means a structure, temporary or permanent, having a roof or other covering supported by columns or walls designed or used for the shelter, housing, or enclosure of persons, animals or property. The term "building" includes the word "structure".

Building, accessory, means a building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

Building footprint means the total amount of area on the ground covered by the building structure; in lieu of exact measurements for the principal structure, the total square footage divided by the number of floors may be used for the building footprint.

Building height means the vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the eaves.

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

Building setback line means a line establishing the minimum allowable distance between the nearest portion of any building, including porches, and the nearest edge of the street right-of-way when measured perpendicularly thereto.

Bulletin board means a sign used to announce meetings or programs of a church, school, auditorium, library, museum, community recreational center or similar noncommercial place of public assembly. Bulletin board signs may be permanent signs which hold temporary banners or text that changes on a regular basis.

Cemetery means property used for the dead, which use may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies; or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or grave sites.

Church/house of worship means a building or structure, or group of buildings or structures which, by design and construction are primarily intended for conducting organized religious services, whose site may include an accessory area for the interment of the dead.

Club means buildings or facilities owned or operated by a person for a social, educational or recreational purpose.

Co-location means the placement of additional antennas or antenna arrays on an existing or approved telecommunication or electrical transmission tower, the sharing of an antenna or antenna array, or otherwise

sharing a common location by two or more Federal Communications Commission (FCC) licensed providers of personal wireless service. Co-location includes antennas, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other support equipment or improvements located on the tower site.

Community recreational center means a building used for recreational, social, educational and cultural activities, owned and operated by a governmental or nonprofit group or agency, except for this use when operated by homeowners' associations within subdivisions. Nonprofit means that the community recreational center is owned and operated by a federally recognized non-profit organization organized and operated exclusively for exempt purpose set forth in 26 USC 501(c)3.

Conservation easement means a right conveyed by deed or other appropriate recorded instrument which gives the grantee a nonpossessory interest in the real property of the grantor, and which perpetually and permanently restricts the use of the real property to the uses set forth in section D-917B.J.1.

Conservation land means that portion of a tract that is set aside for permanent and perpetual protection as required by this UDO.

- (1) *Primary conservation land* means that portion of a tract that consists of viewsheds, floodplains, wetlands, lakes, ponds and hydric soils.
- (2) *Secondary conservation land* shall include that portion of a tract that consists of forestland, farmland, historic sites, steep slopes, rock formations, and land adjacent to parks.

Conservation organization means a nonprofit corporation or trust, or any private corporation or business entity authorized to do business in the state, intended to exist indefinitely, and whose ongoing purpose includes the following:

- (1) The permanent and perpetual preservation of land areas for outdoor recreation by, or for the education of, the general public;
- (2) The permanent and perpetual protection of the natural habitat of fish, wildlife, or plants, or similar ecosystem; or
- (3) The permanent and perpetual preservation of open space (including farmland and forestland) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated federal, state or local governmental conservation policy, and that will yield a significant public benefit.

Construction trailer means a mobile home which is designed for neither overnight, nor year-round occupancy and is used exclusively at a construction project on a temporary basis.

Corral means the primary enclosure for confining livestock. A corral is not a structure as defined by this chapter.

Cul-de-sac means a short street having only one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

Country club means a land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open only to members and their guests for a membership fee.

Day care center means a place where daytime care is provided to six or more children, unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult.

Day care center, small group, means a place where daytime care is provided to not more than five children unrelated by blood or marriage, and not the legal wards or foster children of the attendant adult within an occupied residence.

Dedication means a grant by the owner of a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance, both in a form acceptable for recording.

Deeds office means office of the county register of deeds or of the Mecklenburg County register of deeds.

DENR means state department of environment and natural resources.

Developable lot means, for the purposes of developing a yield plan for a conservation residential development, an undeveloped lot that could be developed into a residential lot within a traditional residential development in accordance with this UDO without any variances at a cost not exceeding the market value of said lot upon recording of the final subdivision plat and without removing or eliminating protected conservation lands, protected open space, floodplains, wetlands, lakes, ponds, protected historic features, protected viewsheds, or public rights-of-way. For the purpose of this definition, the term "protected" means as required by federal, state, or local law, or private agreement.

Development means the construction of any new building, or other structures, or impervious surface on a lot; the relocation of any existing building on a lot; or the use of a lot or tract of land for any new uses.

Development, conservation residential, means a residential subdivision, six acres or greater, that is developed pursuant to section D-917B.

Development, traditional residential, means a residential subdivision that is not a conservation residential development subdivision.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family, but not to include mobile homes, as defined by this chapter.

Dwelling, two-family, means a building arranged or designed to be occupied by two families living independently of each other.

Easement means the right to use a specified portion of a tract or tracts of land for a specified purpose. All easements must be in a form suitable for recording as part of a plat.

Electrical transmission towers shall mean any tower, whether public or private, designed and used to support overhead electrical transmission lines.

Elementary and secondary schools means privately owned or publicly owned preschools, elementary schools, middle schools, junior high schools or high schools.

Essential services means publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse, the transmission of communications, or similar functions necessary for the provision of public services. The term "essential services" is divided into the following classes:

- (1) *Class I.* Transmission lines, whether subterranean or overhead, including electrical, natural gas and water distribution lines, sewer gravity lines and pressure mains, underground septic tanks and drainfields, cable television and telephone transmission lines, or similar utility lines. Electrical lines and electrical transmission towers, except for nonmonopole structures such as steel lattice towers, are exempt from all setbacks that would otherwise be required by this Code. Cable television and telephone transmission lines that co-locate on electrical transmission towers that have been exempted from the setback requirements are exempt from all setbacks that would otherwise be required by this Code.
- (2) *Class II.* Booster stations, pumping stations, switching facilities, substations, lift stations or other similarly required facilities in connection with telephone, nonwire communications, electricity, steam, water, water storage, sewer or other similar utilities. This classification is not intended to govern apparatus and functions set out in essential services class IV, more particularly defined below.
- (3) *Class III.* Generation, production, or treatment facilities such as power plants, sewage treatment plants or similar utilities.
- (4) *Class IV.* Subterranean neighborhood, or cabinet-style switching facilities designed to handle telephone transmissions within the immediate vicinity of the town.

Facilities, common, means those facilities within a conservation residential development that are located on conservation land and are meant for the enjoyment and use of residents of that subdivision. The term "common facilities" includes, but is not limited to, ballfields, benches, playgrounds, trails, and paths.

Family means an individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit, or a group of not more than six persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

Family care home means 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, as defined in G.S. 160D-907(b)(2).

Farmland means those areas that are used for the production and activities related or incidental to the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Floodplain means any land area susceptible to being inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (or 100-year flood) on the Flood Boundary and Floodway Map prepared by the U.S. Department of Housing and Urban Development, dated July 18, 1983 (or latest revision thereof), a copy of which is on file at the zoning administrator's office.

Floor area ratio means the total floor area of all buildings or structures in square feet, excluding parking decks, within a development divided by the total area of all lots or tracts containing that development.

Forestland means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet

Funeral chapel means a building used for the display of the deceased and ceremonies connected therewith before burial. No preparation or embalming of bodies or the cremation of bodies shall take place at a funeral chapel.

Government or town facility means a building or structure owned, operated, or occupied by a government agency to provide a governmental service to the public.

Green, village, means a small, grassed open area that is centrally located in the neighborhood in which it is located and contains no structures other than benches, pavillions, memorials, etc.

Greenhouse, commercial, means an establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

Gross area/acreage of a tract of land means the total square footage of a parcel excluding area contained in a current DOT easement that the developer will be deeding to NCDOT.

Gross floor area means the total area of a building (in square feet) measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. *Health/sports club* means a facility designed and equipped for the conduct of sports, exercise or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the club or open to the public for a fee.

Historic site means one or more parcels, structures, or buildings that is either included on the state register of historic properties or designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or architectural historian and which has been submitted to and approved by the town.

Historical marker means any manmade plaque or sign containing an inscription with historical information about a person, place, or event.

Horse farm or academy means a site where three or more horses are housed, bred, boarded, trained or sold.

Impervious surface means any material which reduces and prevents absorption of stormwater into previously undeveloped land.

Junkyard means the use of more than 600 square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kenel means an establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for financial remuneration. A kennel shall not include pet shops or animal shelters.

Lake means any inland body of water that, in its natural state, has a surface area of two acres or greater, and any body of water artificially formed or increased that has a surface area of two acres or more.

LARTP (local area regional transportation plan) means the plan developed in collaboration with and adopted by the Village of Marvin, the Town of Waxhaw, the Town of Weddington, and the Village of Wesley Chapel. The provisions of the plan are intended to ensure: (a) an integrated system of roads that provides safe and efficient traffic circulation; (b) the efficient movement of through traffic by providing an interconnected system of roads; (c) uncomplicated road layouts so that emergency service personnel, public service personnel and visitors can find their way to and from destinations; and (d) controlled access to thoroughfares.

Loading space, off-street, means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot means a parcel or tract of land in single ownership that is occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. The term "lot" includes a plot or parcel.

Lot, building, means a lot within a residential development that contains a principal residential dwelling.

Lot, corner, means a lot located at the intersection of two or more streets. A lot abutting on a curved street or street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, double frontage, means any lot having access to two street rights-of-way.

Lot, easement, means a lot that is connected to a public road for access via a recorded easement.

Lot, panhandle, means a lot which contains a narrow strip providing street access.

Lot, single-tier, means a lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Lot, through, means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot area means the horizontal area within the legal lot lines of a lot, exclusive of the portions of the lot which lie within the street rights-of-way.

Lot depth means the average horizontal distance between the front and rear lot lines.

Lot line (property line) means the lines bounding a lot.

Lot of record means a lot which is a part of a subdivision, a plat of which has been recorded at the Union county register of deeds (or the Mecklenburg County Register of Deeds), or a lot described by metes and bounds, the description of which has been so recorded.

Lot width means the distance between side lot lines, measured at the building setback line.

Maintenance agreement means a binding agreement between a party and the town, which provides that the party will be responsible for the implementation of all maintenance and operational obligations set forth in the maintenance plan.

Maintenance plan means a plan that meets the requirements of and which provides for the continued operation and maintenance of conservation lands required under subsection D-804.

Map or zoning map means the official zoning map of the town.

Mobile home means a dwelling unit that is not constructed in accordance with the standards set forth in the state building code, is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and eight feet in width. A structure that would otherwise be characterized as a mobile home except that it is not used or held ready for use as a dwelling unit (e.g., is used as an office or some other business use) shall not be regarded as a mobile home.

Mobile home, class A, means a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following criteria:

- (1) The minimum width of the main body of the mobile home as assembled on the site shall not be less than 20 feet, as measured across the narrowest portion.
- (2) The pitch of the home's roof has a vertical rise of one foot for each five feet of horizontal run.
- (3) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted), comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (4) A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footing after placement on the lot and before occupancy.
- (5) The tongue, axles, transporting lights, and removable apparatus are removed after placement on the lot, and before occupancy.

Mobile home, class B, means a mobile home that meets all of the criteria of a class A mobile home except the width criteria.

Modular home means a dwelling unit constructed in accordance with the standards set forth in state building code (Uniform Residential Code for One- and Two-Family Dwellings), and composed of components substantially assembled in a manufacturing plant and transported to the site for final assembly on a permanent foundation.

Nonconforming use means any use of a building or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to this chapter.

Nuisance means an interference with the enjoyment and use of property.

Official maps or plans means any maps or plans officially adopted by the town council.

Open-air storage means an unroofed area for the storage of bulk materials or discarded items whether fenced or not but not including items and non-bulk materials openly displayed for the purpose of retail sale.

Open space means a land area or water feature that conserves, enhances, or creates natural or scenic resources and wildlife habitat or that enhances or creates outdoor recreational opportunities. Open space may be dedicated for public use or held under private ownership. Open space may be active (e.g., soccer, baseball, or football fields, playgrounds, etc.) or passive (e.g., bicycle, walking, and jogging trails, etc.) recreation. All conservation land, as defined above, is open space. However, all open space is not necessarily conservation land. As defined, open space may be land left in its natural state or grass and planted medians with trees in a residential, commercial or nonresidential development.

Park means a noncommercial not-for-profit recreational facility. Such facilities could include parks within developments, neighborhood parks, community parks and/or regional parks. Improvements on parks may include passive (e.g., walking trails) and active (e.g., playgrounds, ballfields) facilities. Commercial amusement facilities (e.g., miniature golf, driving ranges, go-cart tracks, water slides, batting ranges, etc.) shall not be considered as being a park.

Plat means a map or plan of a parcel of land which is to be or has been subdivided.

Pond means any inland body of water that in its natural state has a surface area of at least 1,000 square feet but less than two acres, and any body of water artificially formed or increased that has a surface area of 1,000 square feet but less than two acres.

Preschool facility means an educational facility for preschool children aged two to six years whose major purpose is to provide educationally-oriented classes and activities, as opposed to child care. Such classes shall be limited in time to five hours or less per day.

Preserve, habitat, means a wooded area of local or state significance that is maintained in a natural state for the preservation of animal and/or plant life.

Principal use means the primary or predominant use on any lot.

Private driveway means a roadway serving two or fewer lots, building sites, or other division of land not intended to be public ingress or egress.

Park means a noncommercial, not-for-profit recreational facility. Such facilities could include parks within subdivisions, neighborhood parks, community parks and/or regional parks. Improvements on parks may include passive (e.g., walking trails) and active (e.g., playgrounds, ballfields) facilities. Commercial amusement facilities such as miniature golf courses, driving ranges, go-cart tracks, water slides, batting ranges, etc., shall not be considered parks.

Parking space means a storage space of not less than nine feet by 20 feet for one automobile and having access to a road, but not located within a road right-of-way.

Reservation means a designation of land that does not involve any transfer of property rights, but constitutes an obligation to keep property free from developments for a stated period of time.

Riding academy means an establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and the general public may, for a fee, hire horses for riding.

Road, frontage, means a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Road, local residential, means culs-de-sac, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, serve major traffic generators, or collect traffic from more than 100 dwelling units.

Road, private, means an undedicated private right-of-way which affords access to abutting properties and requires a subdivision street's disclosure statement in accordance with G.S. 136-102.6.

Road, residential collector, means a local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

Road right-of-way means an area of land occupied or intended to be occupied by a road, including areas offered for dedication for such purposes, areas claimed by the state for such purposes, or actually used for such purposes.

Rock formation means a portion of bedrock or other stratum protruding through the soil level.

Sanitary sewer system means a complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, or other such systems, approved by the appropriate state agency.

Sewage means the wastewater, and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, institution, or any public building.

School. See *Elementary and secondary schools* .

School for the arts means an establishment where classes in the various arts (e.g., dance, painting, sculpting, music, yoga, etc.) are taught.

Service Station, Convenience store means an establishment which is normally open for extended hours which sells a limited variety of packaged and/or prepared foods and other conveniences (which may include gasoline) primarily for consumption and use off-premises. Sales of items are highly dependent upon convenience of location, store hours, speed of service and highway accessibility and are less dependent on comparison shopping.

Shared parking means that one or more parking spaces are permitted to simultaneously satisfy the parking requirements of multiple uses. Shared parking is permitted only where, because of the days and/or hours of operation of those uses sharing the parking or for other reasons, drivers associated with one use are unlikely to use the shared parking spaces at the same time those spaces are being used by drivers associated with another use.

Sign means any form of publicity, visible from any public highway directing attention to an individual activity, business service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached to or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.

Sign, attached (on-structure), means a sign applied or attached directly to the face of a building and becoming, or appearing to become, a part of the building. These signs are flush to the wall to which they are affixed.

Sign, building-mounted, means any sign attached to and deriving its major support from a building, and including wall or fascia signs, projecting signs, and roof signs. These signs are perpendicular to the wall and protrude from the wall to which they are affixed.

Sign, construction announcement, means a sign located on the premises of a construction site, identifying the purpose of the construction, the name of the architect, engineer, contractor, subcontractor and suppliers of material or equipment on the premises of work under construction.

Sign, directional, means an off-premises sign, which provides directions to a business, commodity, service, or entertainment not conducted, sold or offered on the premises where the sign is located.

Sign, freestanding ground, means any single- or double-sided sign, either monument-style or erected on a supporting structure, mast, post or pole and not attached, supported or suspended to or from any building or structure.

Sign, identification, means a sign used to identify:

- (1) The name of the individual, family, organization or enterprise occupying the premises;
- (2) The profession of the occupant; or
- (3) The name of the building on which the sign is displayed.

Sign, lighted, means a sign illuminated only by light cast upon the sign from an external light source.

Sign, luminous, means a sign lighted by or exposed to artificial lighting either by lights on or in the sign.

Sign, nonconforming. A sign or advertising structure existing within the town on the effective date of the ordinance from which this chapter is derived, which does not conform to the requirements of this ordinance.

Sign, orientation means an on-premises sign that directs pedestrians and traffic on a property.

sign, off premise. Any advertising sign which advertises goods, products, or services not necessarily sold on the premises on which the sign is located.

sign, on-premises. Any sign identifying or advertising a business, person, activity, foods, products or services located on the same premises as the sign.

Sign, portable, means any sign not permanently attached to the ground or building.

Sign, projecting, means a sign attached to a building or other structure and extending beyond the surface of the supporting structure to which it is attached.

Sign, real estate, means a temporary sign pertaining to the sale, lease or rental of land or building and identifying the selling agent.

Sign, subdivision sales, means a sign located at the entrance of a subdivision, identifying lots and/or homes for sale. Subdivision sales signs may be permitted only after the final plat is approved by the town council.

Sign, temporary, means any sign erected and maintained for a specific length of time.

Sign, time and temperature, means a sign conveying a lighted message of time, temperature, barometric pressure, or similar information by means of electrical impulse or changing intervals.

Sign area. Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area. Only one side of a double-faced sign shall be considered.

Sign setback. The shortest horizontal distance from the property line to the nearest point (leading edge) of the sign or its supporting member whichever is nearer to the property line.

Slope, steep, means an area having a slope greater than 15 percent.

Small cell telecommunications facility means a facility, excluding cell towers and satellite television dish antenna, established for the purpose of providing wireless voice, data and/or image transmission within a designated service area. A small cell telecommunications facility must not be staffed, and consists of one or more antennas attached to a support structure. An antenna or wireless antenna base station which provides wireless voice, data and image transmission within a designated service area as part of a small cell telecommunications facility may consist of a low-powered access node with no more than five watts of transmitter output power per antenna channel, and may not be larger than a maximum height of three feet and a maximum width of two feet. A small cell telecommunications antenna may be installed on existing rooftops, utility poles, structures or support structures where permitted. A small cell telecommunications facility also consists of related equipment which may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.

Street means a dedicated and accepted public right-of-way for vehicular traffic, or a private road, when permitted by this chapter. The term "street" includes, but is not limited to, any road, freeway, highway, expressway or thoroughfare.

Street, collector, means streets which carry traffic from minor streets to the system of major streets.

Street, marginal access, means a minor street which is parallel to and adjacent to major streets and highways and which provides access to abutting properties and protection from through traffic.

Streets, minor (residential), means a street which is used primarily for access to the abutting properties.

Structure means any building, sign, wall, fence, or similar physical obstruction placed or erected on property.

Structure, principal, means a structure in which is conducted the principal use of the lot on which it is located.

Structure setback line means a line establishing the minimum allowable distance between the nearest portion of any structure including porches and the nearest street right-of-way line when measured perpendicular thereto.

Subdivision means a division of a tract or parcel of land into two or more lots, building sites, or the divisions, when any one or more of those divisions is created for the purpose of sale or for a 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

Subdivision, exempt means:

- (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.

Subdivision, major, means a subdivision where:

- (1) New public or private streets or roads are proposed;
- (2) More than six new lots are created after the subdivision is completed; or
- (3) Any subdivision classified conservation residential development.

Subdivision, minor, means a subdivision where: Six or fewer parcels result after the subdivision is completed, including any the subdivider owns, leases or holds any legal or equitable interest in and is adjacent to the property to be subdivided. For purposes of this section, property is deemed to be adjacent even if the property is separated by a street, easement or right-of-way.

Support structure(s) means monopoles, towers, utility poles, light poles, buildings or any other freestanding self-supporting structure which can safely support the installation of any new or additional proposed telecommunications facility.

Telecommunication tower and facilities means a structure, including any accessory structures to house transmitting or maintenance equipment, designated to support antennae used for transmitting or receiving communication transmissions. The term "telecommunication tower and facilities" does not include ham radio operations, wireless radio towers, or television broadcast station towers.

Thoroughfare means streets which provide for movement of high volumes of traffic throughout the town. In general, thoroughfare streets consist of numbered state roads and other major streets as described in NCDOT, Union County, or Town of Weddington Thoroughfare Plans. Design criteria for thoroughfare streets shall be determined by the NCDOT, and construction plans shall be reviewed and approved by the NCDOT District Engineer.

Thoroughfare, major, means a major thoroughfare as designated by the Mecklenburg-Union Thoroughfare Plan or Local Area Regional Transportation Plan (LARTP) and adopted by the town, as amended from time to time. The term "major thoroughfare" includes any other routes as designated by the town.

Thoroughfare, minor, means a minor thoroughfare as designated by the Mecklenburg-Union Thoroughfare Plan or Local Area Regional Transportation Plan (LARTP) and adopted by the town, as amended from time to time. The term "minor thoroughfare" includes any other routes as designated by the town.

Use means the specific purpose for which land, a building, or a portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include a nonconforming use.

Used or occupied means and includes, as applied to any land or building, the terms "intended, arranged, or designed to be used or occupied".

Viewshed means a view through or along a road, or opening, including those along the boundaries of a stream, lake or pond, which frames, highlights, or accentuates a prominent structure, scene or panorama.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas

Yard means any area on the same lot with a building or buildings lying between the building or buildings and the nearest lot line.

Yard, front, means an open, unoccupied space between the street right-of-way line, and the front of a building, projected to the side lines of the lot.

Yard, rear, means a yard extending the full width of the lot on which a principal building is located and situated between the rear lot line parallel thereto and passing through the point of the principal building nearest the rear lot line.

Yard, side, means a space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

Yield plan means a plan that shows the number of developable lots in a proposed conservation residential development if such subdivision were to be built as a traditional residential development in a R-CD zoning district in the town.

Appendix 2 Submittal Requirements

APPENDIX 2 Submittal Requirements

Text Amendment

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of amendments to text prior to approval.)
- The application shall contain a reference to the specific section subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change and the reasons therefor.

Map Amendment

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of amendments to the map prior to approval.)
- A map exhibit showing the boundaries of the property and existing and proposed zoning district.

Conditional Zoning

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the rezoning amendments prior to approval.)
- Existing Resource/Site Analysis Plan (conservation residential development only). See [Appendix 2A](#)
- Yield Plan (conservation residential development only). See [Appendix 2B](#).
- Site plan drawn to scale per chart in [Appendix 2B](#) (architect, landscape architect, or engineer licensed to practice in the state). Said site plan, including all additional information shown on it, shall constitute part of the application for rezoning to a conditional zoning district
- *Development Standards* located on the site plan or as a separate notes section shall include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements of this chapter, will govern the development and use of the property.

General Provisions

- Site Location. Tax parcels, existing and proposed zoning district
- Existing uses.
- Statement regarding vested rights
- A detailed description of all proposed phasing of development for the project.

Permitted Uses

- Proposed Uses and designated areas where those proposed uses will occur
- Number of units and an outline of the areas where the structures will be located.
- Lot sizes for residential and nonresidential uses and proposed outparcels, as applicable.
- Detailed information on the number, height, size and location of structures.

Transportation

- All existing and proposed points of access to public streets from the development.
- Traffic impact analysis. The applicant shall be required to meet the requirements described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.

Design Guidelines

- All proposed setbacks, buffers, screening and landscaping
- A general description of other proposed signs including number, location, type and size of all signs. Actual approval of signs shall be a part of the administrative review of sign permits.

- Scale and physical relationship of buildings relative to abutting properties. This may be accomplished by providing existing and proposed topographic elevation cross-sections of the site showing proposed structures relative to existing adjacent properties.
- Lighting plan
- Pedestrian Connectivity Plan

Architectural Standards

- Conceptual elevations (for mixed use, commercial or non-residential; residential at option of applicant).
- Written description of exterior treatments of all principal structures including proposed materials and general architectural design and description of variations, façade fenestration, etc. (for mixed use, commercial or non-residential; residential at option of applicant).

Variance

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of a variance prior to approval.)
- Name, address and telephone number of the applicant, and property owner (if different from applicant), and a description of the subject property with reference to the deed book and page.
- Names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year Union County and Mecklenburg County tax records.
- A map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property
- The application shall have the applicant respond to the following:
 - special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - said circumstances do not result from the actions of the applicant.
 - granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
 - no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.

Appeal

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of an appeal prior to approval.)
- A summary of the decision and reasoning for appeal

Preliminary Plat (for subdivisions).

- Application provided by the Town. Initiated by the owner of the property or authorized agent
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat and construction plans prior to approval.)
- Preliminary Plat with detailed information per Appendix 2A.

Construction Documents (all) See Section D-609

- No separate application.
- No separate fee. However, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review.
- Construction plans requirements per Town of Weddington Construction Plan Guidelines as may be updated from time-to time by the Town Engineer.
- Landscape Plan
- Detailed Elevations, as applicable (for non-residential developments during construction plan phase)

Final Plat (for subdivisions).

- Application provided by the Town. Initiated by the owner of the property or authorized agent
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the plat prior to approval.)
- Final Plat with detailed information per Appendix 2A.
- Signature Blocks as follows:

Certificate of ownership and dedication.

I hereby certify that I am the owner of the property shown and described hereon, 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 as noted.

<p>_____</p> <p>Owner</p>	<p>_____</p> <p>Date</p>
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Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state. On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to make acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which are not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my original signature, registration number and seal this ____ day of _____, A.D. 20 ____.

	<p>_____</p> <p>Registered Land Surveyor</p>
<p>Official Seal</p>	
	<p>_____</p> <p>Registration Number</p>

Certificate of approval of the design and installation of streets, utilities, and other required improvements.

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Weddington specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Weddington have been given and received.

_____ Subdivision North Carolina	Administrator,	_____ Date
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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 town for recording in the Office of the Register of Deeds of Union County.

_____ Date	_____ Subdivision Town of Weddington, North Carolina	Administrator
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Other Miscellaneous Subdivision Plat Approvals – Exempt, Recombination, Lot Line Revisions

- Application provided by the Town.
- Fee
- Final Plat with detailed information per Appendix 2A.

Certificate of Approval for Recording

I hereby certify that the plat shown hereon has been found to comply with the zoning regulations of the Town of Weddington, North Carolina. This plat is exempt from the Town of Weddington's subdivision regulation ordinance.

_____ Date	_____ Subdivision Town of Weddington, North Carolina	Administrator
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Erosion Control Permit.

- Application (less than 1 acre disturbed) to be submitted with a zoning permit – Erosion and Sedimentation Control Compliance Form provided by the Town.
- Application (1 acre or greater disturbed) – Financial Responsibility/Ownership Form
- Fee
- Erosion Control Plan – Per Appendix 2C Erosion and Sedimentation Control Plan Checklist
- NCG01 Permit -New structures in a common plan of development or lots with areas greater than 1 acre disturbed must fill out an electronic Notice of Intent (e-NOI) form to receive a Certificate of Coverage (COC) under the NCG01 permit through NC DEMLR. A COC is required prior to obtaining a zoning permit.

Zoning Permit

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee

Nonresidential uses. scaled dimensional site plan drawn by and certified as true and correct by a surveyor or engineer registered with the state which shows the following:

- dimensions and location of the lot to be built upon;
- dimensions and location of existing and proposed structures on the land;
- All setback lines on the lot once the proposed construction is completed;
- Proposed parking facilities; and
- Landscaping and buffering plans.

Single-family and two-family residences.

- A scaled site plan showing the following:
 - dimensions of the lot;
 - dimensions of the proposed structure;
 - setback lines; and
 - distance the structure is located from the front, sides and rear lot line of the lot labeled on the plan.

Accessory buildings on residential property and buildings for agricultural purposes.

- A site plan showing the following:
 - lot boundary;
 - square footage of the existing structures;
 - square footage and dimensions of the proposed structures;
 - distances of the proposed structure from the sides and rear lot line of the lot labeled on the plan.

Certificate of Compliance.

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee
- A physical survey certified* as accurate by a surveyor or engineer registered with the state including:
 - the lot boundary;
 - dimensions of the proposed structure;
 - setbacks; and
 - the distance the structure is from the front, sides and rear lot lines of the lot labeled on the plan.

*for residential properties, that if the tract that the residence is constructed on contains ten acres or more, then the person applying for the certificate of compliance shall be allowed to present a noncertified sketch in lieu thereof, provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. If the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey of the improvements with respect to those boundaries only. The sketch submitted shall in all other respects comply to the requirements set forth above.

Sign Permit

- Application provided by the Town.
- Fee

- Elevation showing the linear feet of the facade from side to side, existing signs and square feet and the proposed sign and square feet.
- Site plan (for free standing signs)

Temporary structures including mobile homes, construction trailers, and subdivision sales offices

- Application provided by the Town.
- Fee
- Site plan depicting the following:
 - Size of temporary structures including dimensions
 - Location of structure including all setbacks & buffers
 - Parking for temporary use

Temporary uses including events

- A site plan showing parking and the layout of event area, temporary structures and sign locations
- Narrative including:
 - Nature of use
 - Duration of use
 - Hours of operation
 - Lighting
 - Projected attendance
 - Waste/trash disposal
- Other Submittal Requirements (if applicable):
 - Proof of adequate insurance to cover the event
 - Review from Union County Sheriff's Department regarding traffic and crowd control
 - Union County mass gathering permit
 - Department of Revenue weekend Temp Sales and Use ID# for retail sales

Appendix 2A

- No Application – precursor to conservation residential development site walk and design/charette and precursor to formal application with site plan submittal.
- No Fee
- Existing Resource/Site Analysis Plan
Conditions beyond the tract boundaries may be described on a more general basis from existing published data available from governmental agencies, and from aerial photographs and need not be as specific as those that are required for the development site. Unless otherwise requested by the subdivision administrator to facilitate readability, such plans shall be prepared at a scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard size sheet (24 inches by 36 inches). The following information shall be included in this plan:
 - An aerial photograph enlarged to the same scale as the ER/SA Map, with the site boundaries clearly marked.
 - Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry. Slopes shall be clearly indicated when they are between ten and 15 percent, between 15 and 25 percent, or when exceeding 25 percent. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks. Such contour lines shall also be superimposed on the aerial photo, in a contrasting color to facilitate legibility.
 - The location and delineation of ponds, lakes, streams, ditches, natural drainage swales, wetlands, and floodplains. Additional areas of wetlands on the proposed development tract shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
 - Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, hedgerow, forestland and wetland, location of trees with a caliper in excess of 15 inches, the actual canopy line of existing trees and forestlands. Vegetative types shall be described by plant community, relative age and condition.
 - Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
 - Ridge lines showing boundaries of catchment areas for stormwater runoff.
 - A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, and from the boundaries of lakes, ponds, and streams on the site.
 - Geologic formations on the proposed development parcel, such as rock formations and outcroppings, and fault lines, based on available published information or more detailed data obtained by the applicant.
 - All existing manmade features including, but not limited to, streets, driveways, farm roads, forest roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and sanitary sewers.
 - Locations of all historic sites on the tract.
 - Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
 - All easements and other encumbrances of property which are or have been filed of record with the county register of deeds.
 - Total acreage of the tract, and the location and acreage of primary conservation lands.

Appendix 2B

Information to be contained in or depicted on a site plan (sketch plan) preliminary and final plats.

An "X" indicates that the information is required.

Information	Sketch Plan	Preliminary Plat	Final Plat
Title block containing the subdivision name		X	X
Location (including township, county and state)		X	X
Date or dates survey was conducted and plat prepared		X	X
A scale (not less than 100 feet per inch) listed in words and figures (Except for requirements at the sketch plan phase)	X	X	X
North arrow	X	X	X
A vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area	X	X	X
The names, addresses and telephone numbers of all owners, subdivider, mortgagees, registered land surveyors, land planners, architects, landscape architects and professional engineers responsible for the subdivision	X	X	X
The registration numbers and seals of the professional engineers and land surveyors		X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented shown	X		
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands		X	X
Streets and Lots of adjoining developed properties within 300'	X		
The names of owners of adjoining properties		X	X
The names of any adjoining subdivisions of record or proposed and under review		X	X
Required Buffers	X	X	X
Minimum building setback lines		X	X
The zoning classifications of the tract to be subdivided and on adjoining properties	X	X	

Existing property lines on the tract to be subdivided and on adjoining properties	X	X	X
Existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X	X
Proposed lot lines, lot sizes, block numbers, and approximate dimensions	X	X	X
Percentage of Open Space Required and Provided	X	X	
The lots numbered consecutively throughout the subdivision		X	X
Marshes, swamps, rock outcrops, wetlands, ponds or lakes, streams or stream beds and any other natural features affecting the site	X	X	X
The exact location of the flood hazard, floodway and floodway fringe areas from the town's FEMA maps	X	X	X
Septic tank suitability data furnished by the appropriate county health department	X	X	
The proposed street layout with approximate pavement and right-of-way width, terminal vistas and street end "closes"	X		
A yield plan with a 40,000 sq ft minimum and showing 9,000 sq ft of buildable area.	X		
Proposed roads with horizontal and vertical alignment		X	X
Existing and platted roads on adjoining properties and in the proposed subdivision		X	X
Rights-of-way, location and dimensions		X	X
Pavement widths		X	X
Proposed grades (re: Roads)		X	X
Design engineering data for all corners and curves		X	X
Typical road cross-sections		X	X
Road names		X	X
A driveway permit for any road is proposed to intersect with a state-maintained road as required by the state department of transportation		X	X
The location and dimensions of all utility and other easements	X	X	X
A landscape/buffer plan		X	

The location and dimensions of all buffer strips	X	X	X
The location and dimensions of all pedestrian or bicycle paths	X	X	X
The location and dimensions of all school sites, both existing and proposed	X	X	X
The location and dimension of all parks and recreation areas with specific type indicated	X	X	X
The existing and proposed uses of land within the subdivision and the existing uses of land adjoining it	X	X	
The location and dimensions of areas to be used for purposes other than residential with the purpose of each stated	X	X	X
The future ownership (dedication or reservation for public use to governmental body, homeowners' association, or for tenants remaining in subdivider's ownership) of recreational and open space lands		X	X
Acreage in total tract to be subdivided	X	X	
Acreage in parks and recreational areas and other nonresidential uses	X	X	
Total number of parcels created	X	X	
Acreage in the smallest lot in the subdivision and the average lots size		X	
Limits of Disturbance and Tree Protection Fencing		X	
Linear feet in streets		X	
Union County Environmental Health approval of the proposed lots for septic tanks and wells	X	X	
A Traffic Impact Assessment as required by the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.	X	X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is listed on the U.S. Department of Interior's National Register of Historic Places or is designated as a local historic property by the county	X	X	X
The accurate locations and descriptions of all monuments, markers and control points			X
An erosion control plan		X	X

A copy of any proposed deed restrictions or similar covenants. The developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibilities will include perpetual maintenance of any streets that for any reason are not accepted by NCDOT. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws		X	X
A separate map drawn at the same scale as the preliminary plat showing only proposed streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the subdivision administrator, contour intervals of five feet may be required), and an accurate mapping of soil classifications found on the site and general depths thereof		X	
A copy of notification submitted to the Facilities Director of Union County Public Schools and the Chairman of the Board of Education, stating the number of lots requested in the plat application		X	X
A copy of the approved roadway plan submitted to the appropriate office of the state department of transportation for any major subdivision		X	
A copy of permits from Army Corps of Engineers		X	
The location and dimensions of all drainage easements including P.E. certification when required		X	X
Compliance with setbacks from streams	X	X	X
Establishment of flood protection elevation (FPE)		X	X
Drainage, stormwater management plan and wetland protection plan	X	X	X
A lighting plan		X	

Appendix 2C

EROSION and SEDIMENTATION CONTROL PLAN PRELIMINARY REVIEW CHECKLIST

The following items shall be incorporated with respect to specific site conditions, in an erosion & sedimentation control plan:

NPDES Construction Stormwater General Permit NCG010000

- _____ Designation on the plans where the 7 or 14 day ground stabilization requirements apply per Part II.E.1 of the permit.
- _____ Design of basins with one acre or more of drainage area for surface withdrawal as per Part II.B.8 of the permit.

LOCATION INFORMATION

- _____ Project location & labeled vicinity map (roads, streets, landmarks)
- _____ North arrow and scale
- _____ Identify River Basin.
- _____ Provide a copy of site located on applicable USGS quadrangle and NRCS Soils maps if it is in a River Basin with Riparian Buffer requirements.

GENERAL SITE FEATURES (Plan elements)

- _____ Property lines & ownership ID for adjoining properties
- _____ Existing contours (topographic lines)
- _____ Proposed contours
- _____ Limits of disturbed area (provide acreage total, delineate limits, and label). Be sure to include all access to measures, lots that will be disturbed, and utilities that may extend offsite.
- _____ Planned and existing building locations and elevations
- _____ Planned & existing road locations & elevations, including temporary access roads
- _____ Lot and/or building numbers
- _____ Hydrogeologic features: rock outcrops, seeps, springs, wetland and their limits, streams, lakes, ponds, dams, etc. (include all required local or state buffer zones and any DWQ Riparian Buffer determinations)
- _____ Easements and drainageways, particularly required for offsite affected areas. Include copies of any recorded easements and/or agreements with adjoining property owners.
- _____ Profiles of streets, utilities, ditch lines, etc.
- _____ Stockpiled topsoil or subsoil locations
- _____ If the same person conducts the land-disturbing activity & any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity unless the borrow or waste activity is regulated under the Mining Act of 1971, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities and must be permitted either through the Sedimentation Pollution Control Act as a one-use borrow site or through the Mining Act.
- _____ Location and details associated with any onsite stone crushing or other processing of material excavated. If the affected area associated with excavation, processing, stockpiles and transport of such materials will comprise 1 or more acres, and materials will be leaving the development tract, a mining permit will be required.
- _____ Required Army Corps 404 permit and Water Quality 401 certification (e.g. stream disturbances over 150 linear feet)

EROSION & SEDIMENT CONTROL MEASURES (on plan)

- _____ Legend (provide appropriate symbols for all measures and reference them to the construction details)
- _____ Location of temporary measures
- _____ Location of permanent measures
- _____ Construction drawings and details for temporary and permanent measures. Show measures to scale on plan and include proposed contours where necessary. Ensure design storage requirements are maintained through all phases of construction.
- _____ Maintenance requirements for measures
- _____ Contact person responsible for maintenance

SITE DRAINAGE FEATURES

- _____ Existing and planned drainage patterns (include off-site areas that drain through project and address temporary and permanent conveyance of stormwater over graded slopes)
- _____ Method used to determine acreage of land being disturbed and drainage areas to all proposed measures (e.g. delineation map)
- _____ Size, pipe material and location of culverts and sewers
- _____ Soil information: type, special characteristics
- _____ Soil information below culvert storm outlets
- _____ Name and classification of receiving water course or name of municipal operator (only where stormwater discharges are to occur)

STORMWATER CALCULATIONS

- _____ Pre-construction runoff calculations for each outlet from the site (at peak discharge points). Be sure to provide all supporting data for the computation methods used (rainfall data for required storm events, time of concentration/storm duration, and runoff coefficients).
- _____ Design calculations for peak discharges of runoff (including the construction phase & the final runoff coefficients for the site)
- _____ Design calcs for culverts and storm sewers (include HW, TW and outlet velocities)
- _____ Discharge and velocity calculations for open channel and ditch flows (easement & rights-of-way)
- _____ Design calcs for cross sections and method of stabilization for existing and planned channels (include temporary linings). Include appropriate permissible velocity and/or shear stress data.
- _____ Design calcs and construction details for energy dissipaters below culvert and storm sewer outlets (include stone/material specs & apron dimensions). Avoid discharges on fill slopes.
- _____ Design calcs and dimension of sediment basins (note current surface area and dewatering standards as well as diversion of runoff to the basins). Be sure that all surface drains, including ditches and berms, will have positive drainage to the basins.

VEGETATIVE STABILIZATION

- _____ Area & acreage to be stabilized with vegetation
- _____ Method of soil preparation
- _____ Seed type & rates (temporary & permanent)
- _____ Fertilizer type and rates
- _____ Mulch type and rates (include mulch anchoring methods)

NOTE: Plan should include provisions for groundcover in accordance with NPDES Construction Stormwater General Permit NCG010000.

FINANCIAL RESPONSIBILITY/OWNERSHIP FORM

- _____ Completed, signed & notarized FR/O Form
- _____ Accurate application fee payable to NCDEQ (\$65.00 per acre rounded up the next acre with no ceiling amount)
- _____ Certificate of assumed name, if the owner is a partnership
- _____ Name of Registered Agent (if applicable)
- _____ Copy of the most current Deed for the site. Please make sure the deed(s) and ownership information are consistent between the plan sheets, local records and this form.
- _____ Provide latitude & longitude (in decimal degrees) at the project entrance.
- _____ Two hard-copies of the plans (some regional offices require additional plans or multiple sizes; please contact the regional coordinator prior to such submittal.)

NOTE: For the Express Permitting Option, inquire at the local Regional Office for availability. Express Reviews are performed by appointment only.

NARRATIVE AND CONSTRUCTION SEQUENCE

- _____ Narrative describing the nature & purpose of the construction activity.
- _____ Pre-construction conference, if requested.
- _____ Construction sequence related to erosion and sediment control (including installation of critical measures prior to the initiation of the land-disturbing activity & removal of measures after areas they serve are permanently stabilized). Address all phases of construction and necessary practices associated with temporary stream bypasses and/or crossings.
- _____ Bid specifications related only to erosion control

Appendix 3 Approved Plant List

LIST OF ACCEPTABLE PLANT SPECIES

Alternate plant varieties, hybrids, cultivars, subspecies, etc. of those species (or varieties, hybrids, cultivars, etc.) listed may also be submitted for plan review and approved at the discretion of the zoning administrator.

Botanical Name	Common Name
LARGE MATURING TREES	
<i>Abies firma</i>	Japanese fir
<i>Acer platanoides</i>	Norway Maple
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharinum</i>	Silver Maple
<i>Saccharum</i>	Sugar Maple
<i>Alnus incana</i>	Sugar hackberry
<i>Amelanchier Canadensis</i>	Serviceberry
<i>Betula nigra</i>	River Birch
<i>Carya illinoensis</i>	Pecan
<i>Carya glabra</i>	Shagbark hickory
<i>Carya cordiformis</i>	Pignut hickory
<i>Cedrus deodara</i>	Deodar cedar
<i>Celtis occidentalis</i>	Hackberry
<i>Cryptomeria japonica</i>	Japanese cryptomeria
<i>Cupressocyparis leylandii</i>	Leyland cypress
<i>Diospyros virginiana</i>	Persimmon
<i>Fagus grandiflora</i>	American beech
<i>Fraxinus americana</i>	White ash
<i>Fraxinus pennsylvanica</i>	Green ash

<i>Ginkgo biloba</i>	Ginkgo
<i>Gleditsia triacanthos inermis</i>	Thornless honeylocust
<i>Gymnocladus dioicus</i>	Kentucky coffee tree
<i>Juniperus virginiana</i>	Eastern red cedar
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Liriodendron tulipifera</i>	Tulip poplar
<i>Magnolia acuminata</i>	Cucumber tree
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Nyssa sylvatica</i>	Black gum
<i>Picea abies</i>	Norway spruce
<i>Picea orientalis</i>	Oriental spruce
<i>Picea pungens</i>	Colorado spruce
<i>Pinus bungeana</i>	Lacebark pine
<i>Pinus echinata</i>	Short leaf pine
<i>Pinus nigra</i>	Austrian pine
<i>Pinus sylvestris</i>	Scotch pine
<i>Pinus thunbergi</i>	Japanese black pine
<i>Pinus taeda</i>	Loblolly pine
<i>Pinus virginiana</i>	Virginia pine
<i>Platanus acerifolia</i>	London planetree
<i>Platanus occidentalis</i>	Sycamore
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Quercus acutissima</i>	Sawtooth oak

Quercus alba	White oak
Quercus bicolor	Swamp white oak
Quercus borealis	Northern red oak
Quercus coccinea	Scarlet oak
Quercus falcata	Southern red oak
Quercus laurifolia	Laurel oak
Quercus macrocarpa	Bur oak
Quercus nigra	Water oak
Quercus phellos	Willow oak
Quercus rubra maxima	Eastern red oak
Quercus shumardi	Shumard oak
Quercus velutina	Black oak
Quercus virginiana	Live oak
Salix babylonica	Weeping willow
Sophora japonica regent	Japanese pagoda tree
Taxodium distichum	Bald cypress
Tilia cordata	Littleleaf linden
Tsuga caroliniana	Carolina hemlock
Tsuga canadensis	Eastern hemlock
Ulmus alata	Winged elm
Ulmus americana	American elm
Ulmus parvifolia	Lacebark elm
Zelkova serrata	Japanese zelkova

SMALL MATURING TREES	
Acer buergeranum	Trident maple
Acer campestre	Hedge maple
Acer ginnala	Amur maple
Acer griseum	Paperbark maple
Amelanchier arborea	Service berry
Betula platyphylla japonica	Japanese white birch
Carpinus betulus	European hornbeam
Carpinus carolinana	American hornbeam
Catalpa bignonioides	Southern catalpa
Cornus florida	Flowering dogwood
Cornus kousa	Kousa dogwood
Cornus mas	Cornelian-cherry dogwood
Cercis candensis	Eastern redbud
Crataegus phaenopyrum	Washington hawthorne
Cupressus arizonica	Arizona cypress
Eleganus angustifolia	Russian olive
Eriobotrya japonica	Loquat
Halesia carolina	Carolina siverbell
Hammamelis mollis	Chinese witch-hazel Ilex
Fagus sylvatica	European beech
Fosteri	Foster holly

<i>Ilex opaca</i>	American holly
<i>Ilex opaca hume</i>	Hume holly
<i>Ilex x attenuata 'Fosteri'</i>	Foster hybrid holly
<i>Ilex x attenuata savannah</i>	Savannah holly
<i>Kowlrwuteria bipinnata</i>	Chinese flame tree
<i>Koelreutrania paniculata</i>	Golden raintree
<i>Lagerstroemia indica</i>	Crepe myrtle
<i>Magnolia soulangeana</i>	Saucer magnolia
<i>Magnolia stellata</i>	Star magnolia
<i>Malus floribunda</i>	Flowering crabapple
<i>Malus hybrida</i>	Flowering crabapple
<i>Morus alba</i>	White mulberry
<i>Morus alba 'Pendula'</i>	Weeping white mulberry
<i>Osmanthus americanus</i>	Devilwood
<i>Ostrya virginiana</i>	Ironwood
<i>Oxydendrum arboreum</i>	Sourwood
<i>Paulownia tomentosa</i>	Empress tree
<i>Prunus carolinana</i>	Carolina cherry laurel
<i>Prunus cerasifera 'Atropurpurea'</i>	Pissard plum
<i>Prunus cerasifera pissardii</i>	Purpleleaf plum
<i>Prunus cerasus</i>	Sour cherry
<i>Prunus serrulata kwanzan</i>	Kwanzan cherry
<i>Prunus subhirtella pendula</i>	Weeping cherry

Prunus yedoensis	Yoshino cherry
Pyrus calleryana	Callery pear
Pyrus calleryana Bradfordi	Bradford pear
Pyrus calleryana 'Redspire'	Redspire pear
Pyrus calleryana 'Capital'	Capital pear
Quercus acuta	Japanese evergreen oak
Quercus glauca	Ring cupped oak
Ulmus parvifolia	Chinese elm
Viburnum rufidulum	Southern blackhaw
SHRUBS	
Abelia grandiflora	Glossy abelia
Abelia x grandiflora	Kaleidoscope abelia
Aucuba japonica	Japanese aucuba
Azalea hybrida	Glendale azalea
Azalea indica	Indian azalea
Azalea obtusum Kaempferi	Kaempferi azalea
Berberis julianae	Wintergreen barberry
Berberis thunbergii	Japanese barberry
Camellia japonica	Camellia
Camellia sasanqua	Sasanqua camellia
Chaenomeles speciosa	Flowering quince
Cleyera japonica	Cleyera

<i>Euonymus alatus</i>	Winged euonymus
<i>Euonymus japonicus</i>	Evergreen euonymus
<i>Eleagnus pungens</i>	Eleagnus
<i>Forsythia intermedia</i>	Forsythia
<i>Hammamelis virginiana</i>	Witch-hazel
<i>Hydrangea quercifolia</i>	Oakleaf hydrangea
<i>Ilex aquifolium</i>	English holly
<i>Ilex cornuta</i>	Chinese holly
<i>Ilex cornuta burfordi</i>	Burford holly
<i>Ilex cornuta burfordi nana</i>	Dwarf burford holly
<i>Ilex crenata</i> 'convexa'	Convex japanese holly
<i>Ilex crenata</i> 'hetzi'	Hetzi japanese holly
<i>Ilex crenata</i> 'roundifolia'	Roundleaf japanese holly
<i>Ilex</i> 'Emily Brunner'	Emily brunner holly
<i>Ilex glabra</i>	Inkberry holly
<i>Ilex latifolia</i>	Lusterleaf holly
<i>Ilex pernyi</i>	Perny holly
<i>Ilex vomitoria</i>	Yaupon holly
<i>Jumperus chinesis pfitzeriana</i>	Pfitzer juniper
<i>Jumperus chinesis hetzi</i>	Hetzi juniper
<i>Laurus nobilis</i>	Laurel
<i>Ligustrum japonicum</i>	Japanese privet
<i>Ligustrum lucidum</i>	Glossy privet

Ligustrum vicaryi	Vicary goldern privet
Loropetalum chinense	Loropetalum
Mahonia lealei	Leatherleaf mahonia
Myrica cerifera	Wax myrtle
Nandina domestica	Nandina
Osmanthus fortunei	Fortune tea olive
Osmanthus fragrans	Fragrant tea olive
Osmanthus heterophyllus	Holly osmanthus
Osmanthus heterophyllus roundifolius	Curly leaf tea olive
Photinia fraseri	Fraser photinia
Photinia serrulata	Chinese photinia
Pieris floribunda	Mountain andromeda
Pieris japonica	Japanese andromeda
Pittosporum tobira	Pittosporum
Prunus laurocerasus	English laurel
Prunus laurocerasus angustifolia	Narrow leaf english laurel
Podocarpus macrophyllus maki	Podocarpus
Pyracantha coccinea	Scarlet firethorn
Raphiolepis umbellata	Yeddo-hawthorn
Spirea cantoniensis	Reves spirea
Spirea thunbergi	Thunberg spirea
Spirea prunifolia plena	Bridalwreath spirea
Spirea vanhouttei	Vanhoutte spirea

Taxus cuspidata	Japanese yew
Viburnum prunifolium	Blackhaw viburnum
Viburnum rhytidophyllum	Leatherleaf viburnum
Viburnum tinus	Laurestinus viburnum

(Ord. No. 87-04-08, app. 1, 4-8-1987; Ord. No. O-2013-03, 2-11-2013; Ord. No. O-2016-11, 12-12-2016; Ord. No. O-2017-12, 10-9-2017)

Appendix 4 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.

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

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.

(Ord. No. O-2000-01, art. 1, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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.

(Ord. No. O-2000-01, § 2-1, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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 this UDO 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 D-918.K.
- (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.

(Ord. No. O-2000-01, § 2-2, 8-14-2000; Ord. No. O-2003-11, § 1, 5-12-2003; O-2009-09, 7-13-2009; Ord. No. O-2019-02, 5-13-2019)

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.

(Ord. No. O-2000-01, § 2-3, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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.

(Ord. No. O-2000-01, § 2-4, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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.

(Ord. No. O-2000-01, § 2-5, 8-14-2000; Ord. No. O-2017-16, 11-13-2017; Ord. No. O-2019-02, 5-13-2019)

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.

(Ord. No. O-2000-01, art. 4, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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 Article 8. 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.

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

Sec. 14-91. - Notification requirements.

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

(Ord. No. O-2000-01, art. 6, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

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 this UDO.

(Ord. No. O-2000-01, art. 7, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Secs. 14-93—14-100. - Reserved.

Appendix 5 Architectural 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.

(Ord. No. O-2009-10, 7-13-2009)

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.

(Ord. No. O-2009-10, 7-13-2009)

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.

(Ord. No. O-2009-10, 7-13-2009)

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.

(Ord. No. O-2009-10, 7-13-2009)

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.

(Ord. No. O-2009-10, 7-13-2009)

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 requirements of Appendix 4.

(Ord. No. O-2009-10, 7-13-2009)

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.

(Ord. No. O-2009-10, 7-13-2009)

Appendix 6 Erosion Control

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 upgrade 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 set forth in this UDO, 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 this UDO.
- (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)

Appendix 7 Floodplain Regulations

FLOOD DAMAGE PREVENTION, DRAINAGE, STORMWATER MANAGEMENT AND WETLAND PROTECTION

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. chapter 7A.
- (c) Variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and 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)

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:

I _____, 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)

Secs. 58-521—58-540. - Reserved.

Appendix 8 Stormwater

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 58-520, "Setbacks from streams".
 - (12) Applicants proposing new development within the downtown overlay district 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.

(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 Enforcement Manual. Failure to provide the inspection report may result in enforcement and penalties as described herein. 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 Six-Mile 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)

Appendix 9 Historic Preservation

DESIGNATION OF HISTORIC DISTRICTS

Sec. 26-57. - Adoption of an ordinance of designation of a historic district.

Upon compliance with the procedures set out in section 26-59, the town council may, as part of a zoning or other ordinance enacted or amended pursuant to this article, designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, such districts may include as uses, by right or as conditional or special uses, those uses found by the historic preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district.

(Ord. of 9-13-1993, § 3.1)

Sec. 26-58. - Definition of character of a historic district.

Historic districts established pursuant to this division shall consist of areas which are deemed and found by the historic preservation commission to be of special significance in terms of their history, prehistory architecture, and/or culture, and to possess integrity of design, setting, materials, feeling and association.

(Ord. of 9-13-1993, § 3.2)

Sec. 26-59. - Required procedures.

- (a) No historic district or districts shall be designated until:
- (1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared; and
 - (2) The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the town council within 30 calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the town council of any responsibility for awaiting such analysis, and the town council may at any time thereafter take any necessary or desired action.
- (b) The town council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to create a historic district. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts with the jurisdiction, the investigative studies and reports required by subsection (a) of this section shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in this UDO. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions of subsection (a)(2) of this section.
- (c) Upon receipt of these reports and recommendations, the town council may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning provisions.

(Ord. of 9-13-1993, § 3.2)

Secs. 26-60—26-76. - Reserved.

DESIGNATION OF LANDMARKS

Sec. 26-77. - Adoption of an ordinance of designation of landmarks.

- (a) Upon complying with the landmark designation procedures as set forth in this division, the town council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistoric, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.
- (b) The ordinance designating a historic landmark shall describe each property designated in the ordinance, the name of the owner of the property, those elements of the property that are integral to its historical, architectural, or prehistoric value, including the land areas of the property so designated and any other information the town council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. part 3C be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

(Ord. of 9-13-1993, § 4.1)

Sec. 26-78. - Inventory of landmarks.

As a guide for the identification and evaluation of landmarks, the historic preservation commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history.

(Ord. of 9-13-1993, § 4.2)

Sec. 26-79. - Required procedures.

No ordinance designating a historic building, structure, site, area or object as a landmark and no amendment thereto may be adopted, and no property may be accepted or acquired by the historic preservation commission or the town council until all of the following procedural steps have been taken:

- (1) The historic preservation commission shall prepare and adopt rules of procedure and principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks.
- (2) The historic preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, education or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The investigation and report shall be forwarded to the division of archives and history, state department of cultural resources.
- (3) The department of cultural resources, acting through the state historic preservation officer, shall either upon request of the department or at the initiative of the historic preservation commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. Comments shall be provided in writing within 30 days following receipt by the department of the investigation and report. The town council shall be relieved of any responsibility to consider department comments if such comments are not received within 30 days.
- (4) The owner of the property proposed to be designated as a landmark shall have filed an application with the historic preservation commission requesting that the property be designated as a landmark.
- (5) The historic preservation commission and the town council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Notice of the time, place and purpose of the public hearing shall be mailed to all adjoining property owners, including the owners of properties located across any

street or road from the property proposed to be a landmark, at least two weeks prior to the hearing, by first class mail. Notice of the public hearing shall be published in a newspaper having general circulation in the area once a week for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing. In computing such time, the date of publication is not to be included, but the date of the hearing shall be included. Owners of the property proposed to be designated a historic property or included in a historic district shall be mailed a notice of the public hearing ten days prior to same.

- (6) Following the public hearing, the town council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (7) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the historic preservation commission in the office of the county register of deeds. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the county register of deeds' office. The historic preservation commission shall pay a reasonable fee for filing and indexing. All amendments thereto shall be kept on file in the office of the town clerk and shall be available for public inspection at any reasonable time.
- (8) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the historic preservation commission to give notice thereof to the tax supervisor of county. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

(Ord. of 9-13-1993, § 4.3)

Secs. 26-80—26-101. - Reserved.

ALTERATION OR DEMOLITION OF DESIGNATED LANDMARK OR HISTORIC DISTRICT

Sec. 26-102. - Certificate of appropriateness.

- (a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), no aboveground utility structure, and no type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark (or within such district) until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, and such certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this division. A certificate of appropriateness shall be required whether or not a building or other permit is required.
- (b) For purposes of this division, the term "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such exterior features may, in the discretion of the town council, include historic signs, color and significant landscape, archaeological, and natural features of the area.
- (c) Except as provided in section 26-103, the historic preservation commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features in the district or of the landmark which would be incongruous with the special character of the landmark or district.

(Ord. of 9-13-1993, § 5.1)

Sec. 26-103. - Limitation on jurisdiction over interior spaces.

Notwithstanding section 26-102, the jurisdiction of the historic preservation commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the county register of deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the historic preservation commission's jurisdiction over the interior.

(Ord. of 9-13-1993, § 5.2)

Sec. 26-104. - Application for certificate of appropriateness.

An application for a certificate of appropriateness shall be obtained from the historic preservation commission, and when completed, filed with the historic preservation commission.

(Ord. of 9-13-1993, § 5.3)

Sec. 26-105. - Contents of an application for certificate of appropriateness.

The application for a certificate of appropriateness shall, in accordance with the historic preservation commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted.

(Ord. of 9-13-1993, § 5.4)

Sec. 26-106. - Time for hearing application for certificate of appropriateness.

Applications shall be considered by the historic preservation commission at its next regular meeting, provided they have been filed, complete in form and content, at least 30 calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a specially called meeting of the commission. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

(Ord. of 9-13-1993, § 5.5)

Sec. 26-107. - Notification by historic preservation commission of affected property owners.

Upon receipt of an application for a certificate of appropriateness, the historic preservation commission shall notify the owners of any property likely to be materially affected by the application in writing at least ten days before the regularly scheduled meeting at which the application is to be heard. Notice to property owners likely to be materially affected by the application shall include all adjoining property owners and the owners of properties located across any roadway from the affected property. Such owners shall be given an opportunity to be heard.

(Ord. of 9-13-1993, § 5.6)

Sec. 26-108. - Public hearing.

When an application for a certificate of appropriateness is presented to the historic preservation commission, a public hearing shall be held. All meetings of the commission shall be open to the public in accordance with the state Open Meetings Law, G.S. 143-33C.

(Ord. of 9-13-1993, § 5.7)

Sec. 26-109. - Action on an application for a certificate of appropriateness.

- (a) The action on an application for a certificate of appropriateness shall be approval, approval with modification, or denial.
- (b) Prior to any final action on an application the review criteria in section 26-110 shall be used to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the district or landmark.
- (c) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding 60 days from the date the application is filed. As part of its review procedure the commission may view the premises and seek the advice of the department of cultural resources or other such experts as it may deem necessary under the circumstances.

(Ord. of 9-13-1993, § 5.8)

Sec. 26-110. - Review criteria for certificate of appropriateness.

- (a) It is the intent of these criteria and the design guidelines to insure, insofar as possible, that changes to a designated landmark or structures in a historic district shall be in harmony with the reasons for designation.
- (b) When considering a certificate of appropriateness, the historic preservation commission shall take the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure, as well as the effect of such change or additions upon other structures in the vicinity. In a historic district it is not the intention of these criteria or the guidelines to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from a particular historic period. In considering new construction in a historic district, the historic preservation commission shall encourage contemporary design that is harmonious with the character of the district.
- (c) The following criteria shall be considered, when relevant, along with companion design guidelines and the guidelines of the secretary of the interior in reviewing for a certificate of appropriateness:
 - (1) Lot coverage, defined as the percentage of lot area covered by primary structures;
 - (2) Setback, defined as the distance from the lot lines to the building;
 - (3) Building height;
 - (4) Spacing of buildings, defined as the distance between adjacent buildings;
 - (5) Building materials;
 - (6) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
 - (7) Surface textures;
 - (8) Roof shapes, form and materials;
 - (9) Use of local or regional architectural traditions;
 - (10) General form and proportions of buildings and structures, and relationship of any additions to the main structure;

- (11) Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements;
- (12) Orientation of the building to the street;
- (13) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- (14) Proportion of width to height of the total building facade;
- (15) Archaeological sites and resources associated with standing structures;
- (16) Major landscaping efforts that would impact known archaeological sites;
- (17) Appurtenant features and other features such as lighting; and
- (18) Structural condition and soundness.

(Ord. of 9-13-1993, § 5.9)

Sec. 26-111. - Minor work.

A certificate of appropriateness application, when determined to involve minor work, may be reviewed and approved by an administrative official according to specific review criteria and guidelines. For the purpose of this section, the term "minor work" means those exterior changes that do not involve substantial alterations, additions, or removals that could impair the integrity of the property (and/or the district as a whole). Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving minor work may be denied without the formal action of the historic preservation commission.

(Ord. of 9-13-1993, § 5.10)

Sec. 26-112. - Certain changes not prohibited.

Nothing in this division shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances or regulations. Nothing in this division shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing aboveground utility structures without approval by the commission.

(Ord. of 9-13-1993, § 5.11)

Sec. 26-113. - Appeals.

An appeal may be taken to the town board of adjustment from the historic preservation commission's action in granting or denying any certificate. The appeals may be taken by any aggrieved party, shall be taken within times prescribed by the commission in the rules of procedure, and shall be in the nature of certiorari. Any appeal from the appropriate board of adjustment's decision in any such case shall be heard by the superior court of the county.

(Ord. of 9-13-1993, § 5.12)

Sec. 26-114. - Submission of new applications.

If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

(Ord. of 9-13-1993, § 5.13)

Secs. 26-115—26-141. - Reserved.

DELAY IN DEMOLITION OF LANDMARKS AND BUILDINGS WITHIN HISTORIC DISTRICTS

Sec. 26-142. - Delay by historic preservation commission.

An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in section 26-144. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized this section shall be reduced by the historic preservation commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period, the historic preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the buildings or site. If the historic preservation commission finds that a building site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

(Ord. of 9-13-1993, § 6.1)

Sec. 26-143. - Delay pending designation as district or landmark.

If the historic preservation commission has voted to recommend designation of a property proposed by an owner to be so designated as a landmark or designation of an area as a district, and final designation has not been made by the town council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the town council for a period of up to 180 days or until the town council takes final action on the designation, whichever occurs first.

(Ord. of 9-13-1993, § 6.2)

Sec. 26-144. - Prevention of demolition by neglect.

The town council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(Ord. of 9-13-1993, § 6.3)

Sec. 26-145. - Structures having statewide significance.

An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. of 9-13-1993, § 6.4)

Appendix 10 Housing Code

Sec. 14-42. - Finding; purpose.

- (a) Pursuant to G.S. 160A-441, it is hereby declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.
- (b) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. 160A6, art. 19, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

(Ord. No. O-2006-21, § 1, 10-9-2006)

Sec. 14-43. - Definitions.

- (a) 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:

Basement means a portion of a dwelling which is located partly underground and which has direct access to light and air from windows located above the level of the adjoining ground.

Cellar means a portion of a dwelling which is located partly or wholly underground and which has an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

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

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

Dwelling means any building, structure, manufactured home or mobile home, or part thereof used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith; provided that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose.

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

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

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

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

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

Inspector means the building inspector of the town, whether by town designation or by contract with another political subdivision, or any authorized agent of the inspector.

Multiple dwelling means any dwelling containing more than one dwelling unit.

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

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

Owner means the holder of the title in fee simple and every mortgagee of record.

Party or parties in interest means all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

Plumbing means and shall include all of the following supplied facilities and equipment:

- (1) Gas pipes;
- (2) Gas burning equipment;
- (3) Water pipes;
- (4) Mechanical garbage disposal units (mechanical sink grinders);
- (5) Sewage disposal pipes;
- (6) Water closets;
- (7) Sinks;
- (8) Installed dishwashers;
- (9) Lavatories;
- (10) Bathtubs;
- (11) Shower baths;
- (12) Installed clothes washing machines;
- (13) Catchbasins;
- (14) Drains;
- (15) Vents; and
- (16) Any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

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

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

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

Rubbish means nonorganic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.

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

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

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

(b) Whenever the words "dwelling, dwelling unit, roominghouse, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. O-2006-21, §§ 2, 2.1, 10-9-2006)

Sec. 14-44. - Minimum standards of fitness for dwellings and dwelling units.

- (a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-45 through 14-50.
- (b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-45 through 14-50.

(Ord. No. O-2006-21, § 3, 10-9-2006)

Sec. 14-45. - Minimum standards for structural condition.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- (1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (5) Adequate facilities for egress in case of fire, panic, or other emergency shall be provided.
- (6) Interior walls and ceilings of all rooms, closets and hallways shall be finished with suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (7) The roof, flashing, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.
- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.
- (9) There shall be no use of the ground for floors, nor may wood floors be placed directly on top of the ground.

(Ord. No. O-2006-21, § 4, 10-9-2006)

Sec. 14-46. - Minimum standards for basic plumbing, heating and electrical equipment and facilities.

- (a) *Plumbing system.*

- (1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.
 - (2) Each dwelling unit shall contain not less than a kitchen sink, a lavatory containing both a sink and toilet facilities, a tub or shower, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
 - (3) All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.
 - (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.
- (b) *Heating system.* Every dwelling or dwelling unit shall provide a source of heat or heating system in accordance with the following:
- (1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70 degrees Fahrenheit, measured at a point three feet above the floor, during ordinary winter conditions.
 - (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling or dwelling unit shall be provided with a sufficient source of heat (i.e., space heaters) which are properly installed and connected to chimneys, flues, gas vents or other facilities to heat all habitable rooms, bathrooms, and water closet compartments to a minimum temperature of 70 degrees Fahrenheit, measured at a point three feet above the floor, during ordinary winter conditions.
- (c) *Electrical system.*
- (1) Every dwelling or dwelling unit shall be wired for electric lights and outlets. Every habitable room shall contain at least two floor or wall-type electric outlets, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric outlets.
 - (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
 - (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.
 - (4) Every dwelling shall be equipped with smoke detectors installed to protect occupants in all sleeping areas.

(Ord. No. O-2006-21, § 5, 10-9-2006)

Sec. 14-47. - Minimum standards for ventilation.

- (a) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.
- (b) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms; provided that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. No. O-2006-21, § 6, 10-9-2006)

Sec. 14-48. - Minimum standards for space, use and location.

- (a) *Room sizes.*
 - (1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code.
 - (2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.
- (c) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.
- (d) *Cellar.* No cellar shall be used for living purposes.
- (e) *Basements.* No basement shall be used for living purposes unless:
 - (1) The floor and walls are substantially watertight;
 - (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;
 - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window faces a stairwell, window well or accessway.

(Ord. No. O-2006-21, § 7, 10-9-2006)

Sec. 14-49. - Minimum standards for safe and sanitary maintenance.

- (a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering, to prevent the entrance or penetration of moisture or the weather.
- (b) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.
- (c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- (d) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.
- (e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

- (f) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (h) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health.
- (i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the state residential building code.

(Ord. No. O-2006-21, § 8, 10-9-2006)

Sec. 14-50. - Minimum standards for control of insects, rodents and infestations.

- (a) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.
- (b) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (c) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall use containers and covers for storage of rubbish, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (d) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall use a disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an outside garbage can.

(Ord. No. O-2006-21, § 9, 10-9-2006)

Sec. 14-51. - Minimum standards applicable to roominghouses; exceptions.

The provisions of this article shall be applicable to roominghouses and to every person who operates a roominghouse or who occupies or lets to another for occupancy any rooming unit in any roominghouse, except as follows:

- (1) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever these facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway, and shall be not more than one story above or below the rooming unit of any person sharing such facility. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more

than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

- (3) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the roominghouse. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.
- (4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the roominghouse or through any other room therein.

(Ord. No. O-2006-21, § 10, 10-9-2006)

Sec. 14-52. - Responsibilities of owners and occupants.

- (a) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- (d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- (e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

(Ord. No. O-2006-21, § 11, 10-9-2006)

Sec. 14-53. - Powers and duties of building inspector.

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article. The building inspector shall have the following powers and duties:

- (1) Investigate the dwelling conditions and inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation for the purpose of carrying out the objectives of this article with respect to the repair, closing or demolition of such dwellings and dwelling units;
- (2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) Keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;
- (4) Administer oaths and affirmations, examine witnesses and receive evidence;

- (5) Enter upon premises for the purpose of making examinations and inspections; provided that such entries shall be made in accordance with section 14-54 and with state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (6) Appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this article, and to delegate any of his functions and powers to such officers, agents and employees; and
- (7) Perform such other duties as may be prescribed herein or by the town council.

(Ord. No. O-2006-21, § 12, 10-9-2006)

Sec. 14-54. - Inspections; duty of owners and occupants.

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

(Ord. No. O-2006-21, § 13, 10-9-2006)

Sec. 14-55. - Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.*

- (1) Whenever a petition is filed with the inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector or his designated agent at a place therein fixed not less than ten or more than 30 days after the serving of the complaint.
- (2) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) *Procedure after hearing.*

- (1) After such notice and hearing, the inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.
- (2) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period

of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

- (3) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or else to vacate and remove or demolish the same within a specified period of time, not to exceed 90 days.
- (c) *Failure to comply with order.*
- (1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the inspector shall submit to the town council, at its next regular meeting, a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector.
 - (2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (c)(1) of this section, the inspector shall submit to the town council an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the inspector, and pending removal or demolition, to place a placard on such dwelling as provided by section 14-57 and G.S. 160A-443.
- (d) *Appeals from orders of inspector.* An appeal of any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal of the decision or order of the inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the town board of adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is of a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is of a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board of adjustment, unless the inspector certifies to the board of adjustment, after the notice of appeal is filed with him, that, by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended, except by a restraining order. Such a restraining order may be granted for due cause shown upon not less than one day's written notice to the inspector, by the board of adjustment, or by a court of record upon petition made pursuant applicable law and subsection (e) of this section.
- (1) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. The board shall adopt necessary rules of procedure and adopt other rules and regulations for the proper discharge of its duties under this article, and it shall keep an accurate record of all its proceedings. Any party may appear in person or by agent or attorney.
 - (2) The board of adjustment may reverse or affirm, wholly or in part, or may modify the decision or order appealed, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four members of the board of adjustment shall be necessary to reverse or modify any decision or order of the inspector.
 - (3) The board of adjustment shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article, to

adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.

- (4) Every decision of the board of adjustment shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board of adjustment, but not otherwise.
- (e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the board of adjustment shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector, pending a final disposition of the cause, as provided by applicable law.

(Ord. No. O-2006-21, § 14, 10-9-2006)

Sec. 14-56. - Methods of service of complaints and orders.

- (a) Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (b) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon the owners or such other persons may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this article in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. No. O-2006-21, § 15, 10-9-2006)

Sec. 14-57. - In rem action by inspector; placarding.

- (a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the town council of an ordinance authorizing and directing him to do so, as provided by section 14-55(c) and G.S. 160A-443(5), the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by ordinance of the town council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

Occupation of a building so posted shall constitute a misdemeanor.

- (b) Each such ordinance shall be recorded in the office of the county register of deeds and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

(Ord. No. O-2006-21, § 16, 10-9-2006)

Sec. 14-58. - Costs a lien on premises.

- (a) As provided by G.S. 160A-443(6), the cost of any repairs, alterations or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to section 14-57 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be collected in the same manner as the lien for special assessments established by G.S. ch. 160A, art. 10. The cost shall also be a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner's primary residence. Any such additional lien shall be inferior to all prior liens and shall be collected as a money judgment.
- (b) If a dwelling is removed or demolished by the inspector, the inspector shall sell the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the inspector, secured in a manner directed by the court, and disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(Ord. No. O-2006-21, § 17, 10-9-2006)

Sec. 14-59. - Alternative remedies.

Nothing in this article shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by section 14-61 and G.S. 14-4. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy provided herein or in other ordinances or laws.

(Ord. No. O-2006-21, § 18, 10-9-2006)

Sec. 14-60. - Conflict with other provisions.

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

(Ord. No. O-2006-21, § 19, 10-9-2006)

Sec. 14-61. - Violations; penalty.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same upon order of the inspector, duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 14-55, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) Any owner of a dwelling, except an owner who occupies the dwelling as his principal place of residence, who fails to comply with an order of the code enforcement officer to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to a civil penalty in the amount of \$100.00 for the first day of noncompliance and \$10.00 for each day thereafter until the dwelling is brought into compliance with the order. This penalty may be recovered by the town in a civil action in the nature of the debt if the owner does not pay the same within 30 days after the initial day of noncompliance.
- (d) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.
- (e) In addition to the penalty established by subsection (c) of this section, and the remedies provided by other provisions of this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(Ord. No. O-2006-21, § 20, 10-9-2006)

Secs. 14-62—14-80. - Reserved.