

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
FEBRUARY 1, 2021 – 9:00 AM  
117 DICK STREET, FIRST FLOOR, ROOM 118  
REGULAR MEETING MINUTES

PRESENT: Commissioner Charles Evans, Chairman  
Commissioner Glenn Adams, Vice Chairman  
Commissioner Michael Boose (departed at 9:16 a.m., rejoined at 9:51 a.m.)  
Commissioner Jeannette Council  
Commissioner Jimmy Keefe  
Commissioner Larry Lancaster (departed at 9:51 a.m.)  
Commissioner Toni Stewart  
Amy Cannon, County Manager  
Duane Holder, Deputy County Manager  
Tracy Jackson, Assistant County Manager  
Sally Shutt, Assistant County Manager  
Angel Wright-Lanier, assistant County Manager  
Rick Moorefield, County Attorney  
Dr. Jennifer Green, Public Health Director  
Joe Utley, Tax Administrator  
Keith Todd, Information Services Director  
Vicki Evans, Finance Director  
Rawls Howard, Planning and Inspections Director  
Dee Taylor, Community Development Director  
Robert Van Geons, Fayetteville-Cumberland Economic Development Corporation President/CEO  
Candice H. White, Clerk to the Board

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Elder Tre’Vone McNeill of True Vine Ministries provided the invocation followed by the Pledge of Allegiance to the American flag led by Commissioner Stewart.

Amy Cannon, County Manager, requested an addition to the agenda of a closed session for Economic Development Matter(s) pursuant to NCGS 143-318.11(a)(4).

1. APPROVAL OF AGENDA

MOTION: Commissioner Council moved to approve the agenda with the addition of a closed session for Economic Development Matter(s) pursuant to NCGS 143-318.11(a)(4).  
SECOND: Commissioner Stewart  
VOTE: UNANIMOUS (7-0)

2. PRESENTATIONS

A. Update on COVID-19 and Vaccination Clinics by Dr. Jennifer Green, Public Health Director

Ms. Cannon called on Dr. Jennifer Green, Cumberland County Public Health Director, who provided information about COVID-19 and vaccination clinics with the following PowerPoint presentation.

Dr. Green reviewed the updated North Carolina Department of Health and Human Services Priority Groups and explained how people could find their vaccination group:

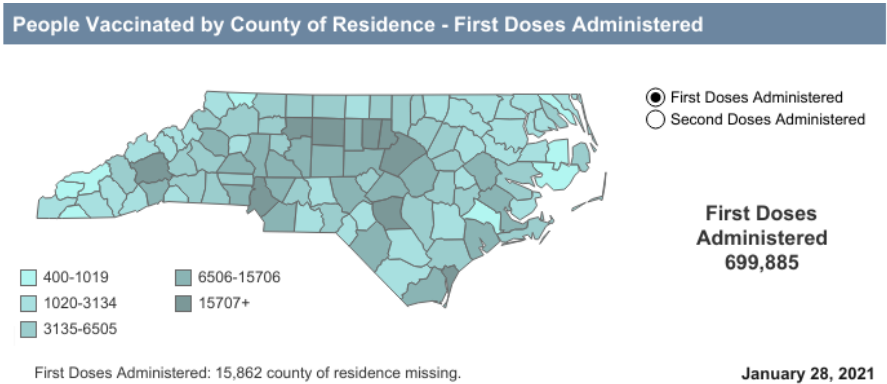
1. Health Care workers and Long-term Care Staff and Residents (currently being vaccinated in Cumberland County)
2. Older Adults (currently being vaccinated in Cumberland County)
3. Frontline Essential Workers
4. Adults at High Risk for Exposure and Increased Risk of severe Illness
5. Everyone



Find My Vaccine Group: Use this tool to find your vaccine group.  
<https://findmygroup.nc.gov/>

Dr. Green stated the state’s dashboard data tends to lag behind and the numbers shown below do not reflect vaccinations administered in Cumberland County on Friday and Saturday, January 29 and 30; the dashboard numbers are an underestimate rather than an overestimate.

COVID-19 Statewide Vaccine Administration				
Vaccinations Data: December 14, 2020 – January 27, 2021 at 11:59 p.m.				
NC Providers - Vaccinations Summary				
	Allocated by Federal Government	Arrived in North Carolina	Total Doses Administered	Percent of Arrived Doses Administered
FIRST DOSES	942,100	794,525	699,885	88%
SECOND DOSES	479,375	387,650	122,158	32%
TOTAL DOSES	1,421,475	1,182,175	822,043	70%
Federal Long-Term Care Program - Vaccinations Summary				
	Allocated by Federal Government	Arrived in North Carolina	Total Doses Administered	Percent of Arrived Doses Administered
FIRST DOSES	165,900	165,900	87,982	53%
SECOND DOSES	165,900	131,400	4,192	3%
TOTAL DOSES	331,800	297,300	92,174	31%
Data on doses administered in long-term care (LTC) facilities through the federal government program with CVS and Walgreens are not included in data for 'Weekly Vaccinations', 'People Vaccinated by Demographics', or 'People Vaccinated by County of Residence'.				



- 25,902 total doses administered to Cumberland County residents
    - 20,895 first doses
    - 5,007 second doses
  - CCDPH administered
    - 10,500 doses
- \*Does not include vaccinations administered from federal allocations
- State shifted allocation methods so all local Health Departments receive some allocation each week
    - Baseline allocation (based on population size/capacity to administer doses) at Cumberland County’s Health Department: 1,000 first doses of Moderna for the next 3 weeks
    - Opportunity to “Plus-up” or receive additional doses to provide for equity in vaccine administration
      - Week of 2/1 Cumberland County Health Department will receive 600 additional doses

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

- Second dose allocations will match first doses
- Expend all first doses on a weekly basis
- Other enrolled providers receiving doses
  - Cape Fear Valley Health System – 1,950 first doses
  - Goshen (FQHC) – 100 first doses due to equity
  - Stedman Wade (FQHC) – 200 first doses due to equity

Dr. Green stated there are other enrolled providers that are not receiving any allocations this week because there are not enough doses in the state to go around.

- Vaccine Administration Schedule
  - Tues – Feb 2<sup>nd</sup>
    - Second-dose clinics only (both Pfizer and Moderna)
  - Wed – Feb 3<sup>rd</sup>
- First doses of Moderna and second doses of Pfizer and Moderna available
- First doses Long-term care facilities not enrolled in the federal VMS partnership
- Launched transportation assistance in collaboration with the county's Community Transportation Program

Commissioner Boose departed the meeting without having been excused.

Dr. Green concluded her presentation and responded to questions/comments that followed.

### 3. CONSENT AGENDA

- A. Approval of January 19, 2021 Regular Meeting Minutes
- B. Approval of Report of Delinquent Real Property Taxes for 2020

#### BACKGROUND

North Carolina General Statute 105-369 requires the Tax Administrator to report unpaid taxes for the current fiscal year that are liens on real property by the first Monday in February. The purpose of the reporting is to allow you to order the Tax Administrator to advertise the tax liens. Upon receipt of your order, I will advertise the tax liens by posting notice at the County Courthouse and by publishing each lien at least one time in one or more of the newspapers having general circulation in Cumberland County.

The statute requires the advertisement period for unpaid taxes that are liens on real property to occur during the period of March 1st through June 30th. It is my intention to deliver a list of delinquent taxes to the Fayetteville Observer newspaper prior to June 30th for advertisement.

Total delinquent taxes on real property for Year 2020:  
\$14,644,490 on 16662 parcels as of 1/20/2021

#### RECOMMENDATION / PROPOSED ACTION

Accept the report of unpaid taxes for the current fiscal year that are liens on real property and charge the Tax Administrator to advertise a list of the tax liens on real property by posting notice at the County Courthouse and by publishing each lien at least one time in the Fayetteville Observer no later than the month of June 2021.

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	A	B	C	D	E	F	G
1	<b>2020 Delinquent Real Property Taxes as of January 20, 2021</b>						
2							
3	<b>Cumberland</b>	<b>Original</b>	<b>Net</b>	<b>Adjustments</b>	<b>Unpaid</b>	<b>Paid</b>	<b>Unpaid</b>
4	<b>County &amp; Recreation</b>	<b>Total Levy</b>	<b>Collected</b>	<b>to Balance</b>	<b>Balance *</b>	<b>Percentage</b>	<b>Percentage</b>
5	Recreation (County & Municipalities)	\$ 3,325,384	\$ 3,086,775	\$ (22,631)	\$ 215,979	93.46%	6.54%
6	Cumberland County Taxes Owed	\$ 154,159,998	\$ 143,759,935	\$ (565,585)	\$ 9,834,478	93.60%	6.40%
7	<b>TOTALS</b>	<b>\$ 157,485,382</b>	<b>\$ 146,846,710</b>	<b>\$ (588,215)</b>	<b>10,050,457</b>	<b>93.6%</b>	<b>6.41%</b>
8							
9	<b>Fire Protection</b>	<b>Original</b>	<b>Net</b>	<b>Adjustments</b>	<b>Unpaid</b>	<b>Paid</b>	<b>Unpaid</b>
10	<b>Service Districts</b>	<b>Billed Levy</b>	<b>Collected</b>	<b>to Balance</b>	<b>Balance *</b>	<b>Percentage</b>	<b>Percentage</b>
11	0011-Cotton	\$ 1,127,384	\$ 1,080,087	\$ (4,924)	\$ 62,353	94.44%	5.56%
12	0021-Cumberland Rd	\$ 522,018	\$ 476,726	\$ (491)	\$ 44,801	91.41%	8.59%
13	0031-Stoney Point	\$ 1,256,048	\$ 1,198,731	\$ (1,433)	\$ 55,884	95.55%	4.45%
14	0051-Pearce's Mill	\$ 874,639	\$ 815,988	\$ (1,559)	\$ 57,092	93.46%	6.54%
15	0071-Bonnie Doone	\$ 2,480	\$ 3,171	\$ 711	\$ -	100.00%	0.00%
16	0081-Westarea	\$ 877,317	\$ 817,518	\$ (8,907)	\$ 50,892	94.14%	5.86%
17	0082-Westarea10	\$ 256,074	\$ 233,780	\$ (803)	\$ 21,691	91.51%	8.49%
18	0091-Grays Creek	\$ 1,091,151	\$ 1,005,173	\$ (12,449)	\$ 73,529	93.18%	6.82%
19	0101-Vander	\$ 1,057,305	\$ 967,075	\$ (8,082)	\$ 82,149	92.17%	7.83%
20	0111-Manchester	\$ 89,859	\$ 74,844	\$ (2,722)	\$ 12,493	85.66%	14.34%
21	0121-Blk Riv./Wade	\$ 114,648	\$ 99,855	\$ (4,237)	\$ 10,558	90.44%	9.56%
22	0131-Stedman	\$ 175,916	\$ 158,747	\$ (1,968)	\$ 15,201	91.26%	8.74%
23	0141-Godwin/Falcon	\$ 103,130	\$ 89,356	\$ (3,248)	\$ 10,525	89.46%	10.54%
24	0151-Lake Rim	\$ 8,748	\$ 5,594	\$ (2,907)	\$ 247	95.78%	4.22%
25	0161-Eastover	\$ 185,692	\$ 162,765	\$ (4,199)	\$ 18,728	89.66%	10.32%
26	0181-Bethany	\$ 298,087	\$ 270,408	\$ (5,505)	\$ 22,174	92.42%	7.58%
27	0191-Beaver Dam	\$ 163,898	\$ 140,182	\$ (1,998)	\$ 21,718	88.59%	13.41%
28	<b>TOTALS</b>	<b>\$ 8,204,355</b>	<b>\$ 7,579,801</b>	<b>(64,519)</b>	<b>560,035</b>	<b>93.12%</b>	<b>6.88%</b>
29							
30		<b>Original</b>	<b>Net</b>	<b>Adjustments</b>	<b>Unpaid</b>	<b>Paid</b>	<b>Unpaid</b>
31	<b>Municipalities</b>	<b>Total Levy</b>	<b>Collected</b>	<b>to Balance</b>	<b>Balance *</b>	<b>Percentage</b>	<b>Percentage</b>
32	Fayetteville	\$ 59,828,165	\$ 55,962,631	\$ (118,164)	\$ 3,747,371	93.72%	6.28%
33	Downtown Revitalization	\$ 152,880	\$ 128,316	\$ (211)	\$ 24,353	84.05%	15.95%
34	Hope Mills	\$ 4,757,321	\$ 4,542,415	\$ (3,938)	\$ 210,968	95.56%	4.44%
35	Spring Lake	\$ 2,717,758	\$ 2,532,781	\$ (3,591)	\$ 181,388	93.32%	6.68%
36	Stedman	\$ 280,856	\$ 254,893	\$ (2,208)	\$ 23,758	91.47%	8.53%
37	Wade	\$ 105,974	\$ 95,324	\$ (2,115)	\$ 8,535	91.78%	8.22%
38	Falcon	\$ 28,176	\$ 25,500	\$ (71)	\$ 2,605	90.73%	9.27%
39	Godwin	\$ 15,015	\$ 13,353	\$ (0)	\$ 1,661	88.93%	11.07%
40	Linden	\$ 21,105	\$ 18,762	\$ (3)	\$ 2,340	88.91%	11.09%
41	Eastover	\$ 549,435	\$ 500,870	\$ (2,273)	\$ 46,292	91.54%	8.46%
42	0102-ETWN Vander	\$ 19,147	\$ 18,161	\$ (277)	\$ 709	96.24%	3.76%
43	<b>TOTALS</b>	<b>\$ 68,475,834</b>	<b>\$ 64,093,006</b>	<b>(132,851)</b>	<b>4,249,977</b>	<b>93.78%</b>	<b>6.22%</b>
44							
45		<b>Original</b>	<b>Net</b>	<b>Adjustments</b>	<b>Unpaid</b>	<b>Paid</b>	<b>Unpaid</b>
46	<b>GRAND TOTALS</b>	<b>Total Levy</b>	<b>Collected</b>	<b>to Balance</b>	<b>Balance *</b>	<b>Percentage</b>	<b>Percentage</b>
47	COUNTY ONLY	\$ 154,159,998	\$ 143,759,935	\$ (565,585)	\$ 9,834,478	93.60%	6.40%
48	FIRE DISTRICTS	\$ 8,204,355	\$ 7,579,801	\$ (64,519)	\$ 560,035	93.12%	6.88%
49	MUNICIPALITIES	\$ 68,475,834	\$ 64,093,006	\$ (132,851)	\$ 4,249,977	93.78%	6.22%
50	<b>GRAND TOTALS</b>	<b>\$ 230,840,186</b>	<b>\$ 215,432,741</b>	<b>\$ (762,955)</b>	<b>\$ 14,644,490</b>	<b>93.63%</b>	<b>6.37%</b>
51					*Does not include Interest or Fees due		
52							

C. Request to Pay Prior Year Invoice

BACKGROUND

There is a period of time after June 30th of fiscal year-end in which transactions of the prior fiscal year will continue to be processed (typically until the third week in August). After that cutoff date has passed, a department may still receive a vendor invoice that is payable for services that were rendered, or goods were received in the prior fiscal year. When that occurs, approval by the Board of Commissioners is required for payment. The following departmental invoices meet that criteria:

Emergency Services

Vendor: Cumberland Septic Service, Inc.

Invoice Dates: April, May and June 2020

Total Amount: \$783.04

Staff have verified these invoices have not been paid. There are sufficient funds within the fiscal year 2021 departmental budget to cover these costs.

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay prior year invoices for Emergency Services totaling \$783.04.

D. Approval of Budget Ordinance Amendments for the February 1, 2021 Board of Commissioners' Agenda

BACKGROUND

General Fund 101

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

1) Department of Social Services – Budget Ordinance Amendment B210838 to recognize additional funds received from the North Carolina Department of Health and Human Services in the amount of \$801,467 for the Low-Income Energy Assistance Program (LIEAP) Fund and reduce general fund balance appropriation in the amount of \$106,109.

The Board is requested to approve Budget Ordinance Amendment B210838 to recognize additional funds received from the North Carolina Department of Health and Human Services in the amount of \$801,467 for the Low-Income Energy Assistance Program (LIEAP) Fund and reduce general fund balance appropriation in the amount of \$106,109. The Low-Income Energy Assistance Program (LIEAP) is a federally funded program that provides for a one-time vendor payment to help eligible households pay their heating bills. These funds are to be used for vendor payments up to \$695,358 and administration costs up to \$106,109. This award decreases the portion that the County is responsible for by \$106,109, which will be returned to the general fund balance.

Please note this amendment requires no additional county funds.

NC Workforce Innovation and Opportunity Act (WIOA) Fund 255

2 ) NC Workforce Innovation and Opportunity Act (WIOA) Statewide Activities – Budget Ordinance Amendment B210335 to recognize North Carolina Department of Commerce, Division of Workforce Solutions funds in the amount of \$5,000

The board is requested to approve Budget Ordinance Amendment B210335 to recognize North Carolina Department of Commerce, Division of Workforce Solutions funds in the amount of \$5,000. These funds will provide a one-time grant to be used for equipment and services needed for teleworking, due to Governor Roy Cooper’s “Stay-At-Home” executive order as a result of the COVID-19 pandemic.

Please note this amendment requires no additional county funds.

#### RECOMMENDATION / PROPOSED ACTION

Approve budget ordinance amendments.

MOTION: Commissioner Keefe moved to approve consent agenda Items 3.A. – 3.D.2).

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0) (Commissioner Boose was still absent from the meeting.)

#### 4. PUBLIC HEARINGS

A. Case P20-62 - Revision and Amendment to the Cumberland County Zoning Ordinance in its Entirety for the Purpose of Bringing the Ordinance into Compliance with the Newly Adopted Chapter 160D State Statutes and Updating the Table of Contents as Appropriate

Full text of the proposed revised Zoning Ordinance follows:

### ARTICLE I ADMINISTRATIVE PROVISIONS

#### **SECTION 101. INTENT AND PURPOSE.**

An ordinance establishing zoning regulations in Cumberland County, North Carolina, and providing for the administration, amendment and enforcement of this ordinance and defining the duties and powers of a Board of Adjustment in accordance with the provisions of the North Carolina General Statutes and amending all previous Cumberland County Zoning Ordinances. This ordinance is to provide for the public health, safety and general welfare, encourage orderly development, protect the quality of the environment and regulate the location and use of structures and land for commerce, industry, residences, parks, public uses, etc., in accordance with the Comprehensive Land Use Plan.

**State Statute Reference:** N.C. GEN. STAT., Chapter 160D, Local Planning and Development Regulation  
(Amd. 02-01-21)



**SECTION 102. TITLE.**

This ordinance shall be known and may be cited as the “Cumberland County Zoning Ordinance.”

**SECTION 103. AUTHORITY.**

The Board of Commissioners of Cumberland County, pursuant to the authority conferred by N.C. GEN. STAT. §160D-702 *et seq.*, adopts, approves, enacts, and ordains this ordinance.  
(Amd. 02-01-21)

**SECTION 104. JURISDICTION.**

On and after its effective date this ordinance and subsequent amendments thereto shall govern the use of all lands within Cumberland County and all areas located outside of the jurisdiction of any municipality including development, as well as floating homes over estuarine waters, and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. In accordance with N.C. Gen. Stat § 160D-202, this ordinance may also regulate territory within the jurisdiction of any municipality whose governing body by resolution requests County to exercise any or all of these powers in any or all areas lying within the city’s corporate limits and County’s Board of Commissioners, by resolution, accepts such jurisdiction; provided, however, that any such grant of jurisdiction from a municipality to County may be modified or rescinded in accordance with N.C. Gen. Stat. § 160D-202(i).  
(Amd. 01-19-10; Amd. 02-01-21)

**SECTION 105. APPLICATION.**

The provisions of this ordinance shall be interpreted and applied as minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, general welfare and protection of the property rights of the community.

**SECTION 106. ORDINANCE ADMINISTRATOR.**

This ordinance shall be administered and enforced by the County’s Planning & Inspections Director (hereinafter “Director”). This official or their representative shall have the right to enter upon the premises in any manner authorized by law as required to carry out the necessary duties for the fair and impartial enforcement of this ordinance. All questions arising in connection with enforcement and interpretation of this ordinance shall be presented first to the Code Enforcement Coordinator (hereinafter “Coordinator”). The Coordinator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination if different. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail to the last address listed for the owner of the affected property on the county tax records and to the address provided in the request for a determination if different from the owner. If the Coordinator, after consultation with and the agreement of the Director, finds that they are not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the Board of Adjustment, then the matter shall be referred to the board for review and decision in accordance with the provisions of Section 1604.  
(Amd. 11-20-06; Amd. 02-19-08; Amd. 02-01-21)

**SECTION 107. STAFF CONFLICT-OF-INTEREST.**

No staff member of the Planning and Inspections Department shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member of the Planning and Inspections Department shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. *(Amd. 02-01-21)*

#### **SECTION 108. ZONING PERMIT.**

A. Zoning Permit Required. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to commence the moving, alteration or repair of any structure, or the use of any land or building, including accessory structures, until the Coordinator has issued a zoning permit for such work or use. Such permit shall include a statement that the plans, specifications for, and intended use of such land or structure, in all respects, conform to the provisions of this ordinance and the County Subdivision Ordinance. Application for a zoning permit shall be made in writing to the Coordinator on forms provided for that purpose. Zoning permits shall be void after six months from date of issue unless substantial progress on the project has been made.

*(Amd. 02-19-08, Amd. 04-18-11)*

B. Approval of Plans. The Coordinator shall review all applications for a zoning permit for any purpose regulated by this ordinance and the County Subdivision Ordinance for conformity with this ordinance and the County Subdivision Ordinance. To this end, every application for a zoning permit shall be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Coordinator to ascertain whether the proposed activity conforms to this ordinance and the County Subdivision Ordinance:

1. The actual shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
3. The existing and intended use of all such buildings or other structures.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance and the County Subdivision Ordinance are being observed.

In any planned district, the Coordinator shall not issue a zoning permit for any new use or change in existing use except in conformance with an approved site plan. The site plan shall also, without limitation, comply with all applicable standards of the Article XIV of this ordinance.

*(Amd. 01-19-10, Amd. 04-18-11)*

C. Issuance of Zoning Permit. If the proposed activity as set forth in the application conforms with the provisions of this ordinance and the County Subdivision Ordinance, the Coordinator shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the Coordinator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provision of this ordinance or of the County Subdivision Ordinance and the County reserves the right to rescind any zoning permit mistakenly issued in contravention of the provisions of this ordinance or of the County Subdivision Ordinance.

*(Amd. 02-19-08)*

#### **SECTION 109. CERTIFICATE OF OCCUPANCY REQUIRED.**

No land or structure (except for signs) or part thereof hereafter erected, moved or altered in its use shall be used until the Coordinator has issued a "Certificate of Occupancy" stating that

such land, structure or part thereof conforms with the provisions of this ordinance and the County Subdivision Ordinance. Within three days after notification that a structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Coordinator to make a final inspection thereof, and to issue a "Certificate of Occupancy" if the building or premises or part thereof conforms with the provisions of this ordinance and the County Subdivision Ordinance; or if such certificate is refused, to state the reason for the refusal in writing.

*(Amd. 02-19-08)*

#### **SECTION 110. BONA FIDE FARM EXEMPTION.**

The provisions of this ordinance do not apply to bona fide farms or bona fide farming purposes as described and defined in N.C. Gen. Stat. § 160D-903. This ordinance does not regulate croplands, timberlands, pasturelands, orchards, or other farmlands, or any farmhouse, barn, poultry house or other farm buildings, including tenant or other dwellings units for persons working on said farms, so long as such dwellings shall be in the same ownership as the farm and located on the farm. Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this ordinance.

*(Amd. 01-19-10; Amd. 02-01-21)*

**State Statute Reference:** N.C. GEN. STAT. §160D-903

#### **SECTION 111. FEES.**

Each applicant for a zoning amendment, either general or for a Conditional Zoning District, text amendment, alternate yard requirement, appeal from administrative decisions, variance or Special Use Permit shall pay a nonrefundable fee in accordance with a schedule adopted by the Board of Commissioners.

*(Amd. 01-19-10, Amd. 04-18-11; Amd. 02-01-21)*

### **ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS**

The interpretation of terms, methods of measurement, and definitions contained in this article shall be observed and applied when construing this ordinance, except when the context clearly indicates otherwise. Words not otherwise defined shall be construed and given their customary and ordinary meaning.

#### **SECTION 201. INTERPRETATIONS OF COMMON TERMS AND WORDS.**

For the purpose of interpreting certain words or terms contained within this ordinance, the following shall apply:

A. Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

B. The word "shall" is always mandatory and not discretionary.

C. The word "may" is permissive.

D. The word "person" includes any firm, association, organization, partnership, corporation, trust or company, or any other legal entity, as well as an individual.

E. The word "lot" shall include the words "piece," "parcel," "tract" or "plot."

F. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for" and "occupied for."



G. Any reference to an “article” or “section” shall mean an article or section of this ordinance, unless otherwise specified.

H. Where any provision of this ordinance conflicts with any other provision of this ordinance, any other County regulation, or any local, State, or Federal law, the most restrictive provision will apply.

*(Amd. 02-19-08)*

## **SECTION 202. METHODS OF CALCULATION.**

The rules set out herein shall be used to enforce and apply this ordinance, unless such rules are inconsistent with specific criteria contained within an individual article or section. If a discrepancy arises between the following methods and any specific section elsewhere in this ordinance, the standards of the section shall prevail.

A. Fractional Requirements. When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded. When the number of dwelling units permitted on a lot submitted for approval as a group development results in a fraction of a dwelling unit, a fraction of one-half or more shall be considered a dwelling unit, and a fraction of less than one-half shall be disregarded.

*(Amd. 02-19-08)*

B. Computation of Time. The time within which an act is to be completed shall be computed by excluding the first day and including the last day; if the last day is a Saturday, Sunday or legal holiday recognized by the County, that day shall also be excluded.

C. Calculations of Measurement. The spatial separations required by this ordinance shall be calculated as follows:

1. Distance. By drawing a straight line from the closest point on the perimeter of the exterior wall of the site being measured to the closest point of the property line in question.

2. Separation from a Use/Structure. By drawing a straight line from the closest point on the perimeter of the exterior wall, structure or bay to another structure, the property line, or a well or septic, as applicable.

3. Area. Multiplying the length times the width and then further calculate to provide total acreage or square footage.

## **SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.**

All terms that are defined in N.C. Gen. Stat. Chapter 160D which are not defined in this ordinance shall have the meaning set out in N.C. Gen. Stat. Chapter 160D. In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

*(Amd. 02-01-21)*

**Abutting/Contiguous:** Having property or district lines in common, i.e., two lots are abutting if they have any portion of any property line in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way or stream.

**Access:** A way of approaching or entering a property. Access also includes ingress, the right to enter and egress, and the right to leave.

**Accessory Building or Use:** A building or use, not including signs, which is:

A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance;

B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use; and

C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

**Administrative decision:** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in local government development regulations.  
(Amd. 02-01-21)

**Agriculture:** 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, as defined in N.C. Gen. Stat. § 106-581.1. The operation of any accessory uses shall be secondary to that of the normal agricultural activities.  
(Amd. 02-01-21)

**Airport Operations (Major):** Any area of land or water which is used or intended for use for the landing and taking off of aircraft having a seating capacity of ten or more person, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

**Airport Operations (Minor):** Any area of land or water designed and set aside for the landing and takeoff of aircraft provided that no aircraft capable of seating more than nine persons shall be permitted to utilize the site. This definition includes all necessary facilities for the housing and maintenance of aircraft. (Section 902)

**Alley:** A public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

**Alter:** To make any change, addition or modification in construction, occupancy or use.

**Alternative Structure (regarding Telecommunication Facilities):** A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. Alternative structures include, but are not limited to, flagpoles, buildings, silos, water tanks, pole signs, lighting equipment, steeples, billboards and electric transmission towers. (Section 927)

**Amusement Center:** An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

**Ancillary Use:** That which is commonly subordinate to or incidental to a principal or primary use – also see *Accessory Structure or Use*.  
(Amd. 01-19-10)

**Antenna:** Any exterior transmitting or receiving device that radiates or captures electromagnetic waves (excluding radar signals).

**Apartment:** A room or suite of rooms intended for use as a residence by a single household or family. Such a dwelling unit may be located in an apartment house, duplex, non-residential building or as an accessory use in a single home.  
(Amd. 02-19-08)

**Approach Surface Zones:** An inclined plane located directly above the approach area to the Fayetteville Regional Airport. The dimensions of the approach area are measured

horizontally. The approach areas for each particular runway are symmetrically located with respect to the extended runway center lines and have lengths and widths as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan. The Airport Airspace Plan also shows the slopes of the respective approach surface zones.  
(Amd. 09-16-08)

**Assembly:** An event causing a company of persons to collect together in one place, and usually for some common purpose, such as for deliberation and legislation, worship or social entertainment.

**Avigation Easement:** An easement, recorded with the Cumberland County Register of Deeds, intended to protect property owners and residents of properties in close proximity to the Fayetteville Regional Airport and by providing for the free and unobstructed passage of aircraft in and through the air space above said properties thus providing for the safe, convenient and reasonable operation of the airport.  
(Amd. 09-16-08)

**Bars & Nightclubs:** Establishments including private clubs, sports bars/clubs etc., that may be licensed to sell alcoholic beverages to be consumed on the premises and do not meet the criteria to be a restaurant.

**Bed and Breakfast:** A form of temporary/transient housing with breakfast included, but no other meals available. There is no restaurant, but overnight guests may use a dining room, which is open only during breakfast hours. (Section 903)

**Berm:** Any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

**Billboard:** See Section 1302 for all sign-related definitions.

**Board of Adjustment:** A quasi-judicial body whose establishment, powers, authority, and responsibility is described in detail in Article XVI.

**Board of Commissioners:** The governing body of Cumberland County.

**Boarding House:** A building other than a bed and breakfast, hotel, inn or motel where, for compensation, meals are served and lodging is provided.

**Bona Fide Farm:** Any tract of land used for agricultural purposes as described and defined in N.C. Gen. Stat. § 160D-903. (Section 109)  
(Amd. 02-01-21)

**Borrow Source Operations:** The removal of soil, sand or other soil materials, with further processing limited to dry screening to remove roots, trash, objectionable and other deleterious material. The provisions of this ordinance shall not apply to bona fide farming activities, operations subject to North Carolina Department of Transportation contractual agreements, or jurisdiction for the duration of the contract only, and any operations exempt from the State Mining Commission's regulations. These exemptions shall apply in all zoning districts. (Section 904)

**Buffer, Riparian:** A strip of land adjacent to and extending parallel with certain rivers or creeks in Cumberland County consisting of vegetation or woodlands or a combination thereof for purposes of filtering stormwater and providing wildlife habitat. (Section 1102.H)  
(Amd. 06-18-12)

**Buffer, Screening:** An opaque fence, wall, berm, hedge or other natural planting, or a combination thereof, which will restrict the view from adjoining streets and/or abutting properties. (Section 1102 G)

**Buildable Area (Buildable Envelope):** The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.  
(Amd. 02-01-21)

**Building, Principal (Main):** A building in which the principal use is conducted for the lot on which it is situated.

**Building, Temporary:** A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

**Building Footprint:** The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor, stoops, porches, chimneys, decks, etc.

**Building Frontage:** The linear foot of a building that runs approximately parallel to and faces public or private street(s).

**Building Height:** The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the building. Spires, cupolas, chimneys, antennae attached to a building, and/or projections from buildings or radio, TV, communications, telecommunication and water towers are not to be included in the calculations of building height.

**Building Lot Coverage:** The amount of net lot area or land surface area, expressed in terms of a percentage that is covered by all principal buildings.

**Building Setbacks:** The minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e. decks, landings, terraces and porches, etc.)

**Cabin:** A building used for occupancy containing sleeping units where the occupants are primarily transient in nature and meet the State Building Codes for a residential building.  
(Amd. 04-20-20)

**Cabin, Open air:** A building that has three walls consisting of at least twenty percent screened openings with a maximum height of 44 inches (1120 mm) above the finished floor to the bottom of the openings and has no heating or cooling system.  
(Amd. 04-20-20)

**Call Center:** A central building or office place where agents or operators man banks of telephones to either make outgoing, or field incoming telephone calls for a specific company or organization.  
(Amd. 11-20-06, Amd. 04-18-11)

**Camouflage:** To disguise with paint or other aesthetic means so as to blend with the surrounding area.

**Campground/RV Parks:** Land upon which shelters (such as tents, cabins/open air cabins, travel trailers and recreational vehicles) are erected or located for temporary occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground. (Section 921)  
(Amd. 04-20-20)

**Canopy, Marquee or Awning:** A roof-like cover extending over a sidewalk, walkway, driveway or other outdoor improvement for the purpose of sheltering individuals or equipment from the weather. An awning is made of fabric or some flexible fabric-like substance. Canopies and marquees are rigid structures of a permanent nature. (Section 1102 A)

**Cemetery:** As defined in Chapter 65, Article 9, of the General Statutes of North Carolina, any one or a combination of more than one of the following in a place used or to be used and dedicated or designed for cemetery purposes:

- A. Burial park for earth interment;
- B. Mausoleum; or
- C. Columbarium.

**Certificate of Occupancy:** Official certification that a premise conforms to the provisions of this ordinance (and State Building Code) and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use upon completion of the building or site final inspection. Unless such a certificate is issued, a structure cannot be occupied, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

*(Amd. 02-19-08)*

**Change of Use:** Changing the original purpose of the building to a different use or changing the lot configuration due to changed requirements (e.g., adding display or storage areas).

**Close familial relationship:** For purposes of conflict of interest, a close familial relationship means a spouse, parent, child, brother, sister, grandparent or grandchild. The term also includes the step, half, and in-law relationships.

*(Amd. 02-01-21)*

**Club or Lodge (Private, Nonprofit, Civic or Fraternal):** Non-profit associations of persons, who are bona fide, dues-paying members, which own, hire or lease a building, or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale of alcoholic beverages is in compliance with applicable Federal, State and local laws. (Section 905)

**Code Enforcement Coordinator:** The individual assigned this position and title within the County's job position classifications that is charged with the day-to-day interpretation and enforcement of this ordinance.

*(Amd. 02-19-08)*

**Conditional Use:** A use or occupancy of a structure, or a use of land, permitted only upon the successful rezoning to a Conditional Zoning district and made subject to the limitations and conditions specified therein. (Article V, Article VI, Article VII, & Article VIII)

*(Amd. 04-18-11)*

**Conditional Zoning:** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. (Article V, Article VI, Article VII & Article VIII)

*(Amd. 02-01-21)*

**Condominium Development:** A project of two or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the North Carolina Unit Ownership Act, N. C. GEN. STAT. 47A-1, et seq., and shall be approved under the requirements for condominium developments set forth in the County Subdivision Ordinance.

**Conical Surface Zone:** An area that extends upward and outward from the periphery of the horizontal surface zone with a slope of 20:1 measured in a vertical plane passing through the



Fayetteville Regional Airport reference point. Measuring radially outward, from the periphery of the horizontal surface zone, the conical surface extends for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

(Amd. 09-16-08)

**Conservancy Organization:** Any legally established incorporated entity, whether for profit or non-profit, whose primary mission is dedicated to the protection of the environment and natural resources.

(Amd. 02-19-08)

**Convalescent Home (Nursing Home):** An institution that is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A convalescent home is a home for chronic or nursing patients who, on admission, are not as a rule acutely ill and who do not usually require special facilities such as an operating room, x-ray facilities, laboratory facilities or obstetrical facilities. A convalescent home provides care for persons who have remedial ailments or other ailments for which continuing medical and skilled nursing care is indicated, who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor that distinguishes convalescent homes is that the residents will require the individualization of medical care. (Section 917)

**Convenience Container and Recycling Facility:** A County-owned, -leased or -operated site, generally two acres or less in size, serving the surrounding community for the temporary collection, storage and transference of solid waste, yard waste and recyclables. (Section 905.1)

(Amd. 03-17-09)

**Coordinator:** See *Code Enforcement Coordinator*.

(Amd. 02-19-08)

**County Subdivision Ordinance:** The Cumberland County Subdivision Ordinance is a technical ordinance which governs the division and development of property located within the jurisdictional boundary of the County of Cumberland.

(Amd. 01-19-10)

**Day Care Facility:** A building or dwelling regularly used for recreational or supervisory care of nine or more persons (adults or children), not including the operator's own family members, during any 24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit. The following are not included: public schools; nonpublic schools, as described in N. C. GEN. STAT. §110-86(2); summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods. (Section 906)

**Density:** The average number of families, persons, housing units or buildings per unit of land. For purposes of this definition, public utility easements for sub-stations shall not count toward density.

(Amd. 01-19-10)

**Density Development:** The division of land, in such a way as to allow development at the density of the parallel zoning district while at the same time promoting the preservation of natural topography by requiring that all development occur on 60 percent of the overall acreage with open space designation for the other 40 percent. (Article VIII)

(Amd. 02-19-08)

**Detention Facility:** A publicly or privately-operated jail or prison designed for the detention of juveniles or adults as pretrial detainees or as convicted inmates serving terms of incarceration. (Section 907)

**Determination:** A written, final and binding order, requirement, or determination regarding an administrative decision.

*(Amd. 02-01-21)*

**Director:** See *Planning and Inspections Director*.

*(Amd. 02-19-08)*

**Distillery, Small:** An independently owned distillery operating in a structure not exceeding 25,000 square feet in size that produces small batch, craft distilled spirits (not beer or wine) only for direct sale to the North Carolina Alcoholic Beverage Control Commission.

*(Amd. 04-20-15)*

**DNL:** The A-weighted average day/night sound level in decibels during a 24-hour period.

*(Amd. 09-16-08)*

**Driveway:** A private access way, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel in which it is located.

**Dwelling:** A building that contains one or more dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

*(Amd. 02-01-21)*

**Dwelling, Multiple Family:** A residence designed for or occupied by two or more families consisting of two or more dwelling units.

*(Amd. 02-01-21)*

**Dwelling, Single Family:** A detached residence designed for or occupied by one family only and consisting of one dwelling unit.

*(Amd. 02-01-21)*

**Dwelling Unit:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*(Amd. 02-01-21)*

**Easement:** A right given or reserved by the owner of land for specific limited use of that land.

**Equestrian Facilities:** Commercial stand-alone facilities or as an integral part of and in conjunction with residential developments, including: horse ranches, boarding stables, riding schools and academies, trails, and horse exhibition facilities. Barns, stables, corrals, paddocks and the like are considered accessory and incidental to the foregoing uses.

*(Amd. 11-20-06)*

**Façade:** The exterior walls of a building which is adjacent to or fronting on a public right-of-way or other public area; typically the front of a building, but also includes any side or rear of a building facing a public right-of-way or other public area.

*(Amd. 01-19-10)*

**Family:** One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over five persons. The presence of household employees or children in foster care shall not disqualify any premises otherwise satisfying the above rules.

**Fences or Walls:** A tangible barrier constructed of any allowable material erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes (such as ornamental gate or ornamental gates), or to

screen from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it. (Section 1102 C)

*(Amd. 02-19-08)*

**Fences or Walls, Solid:** A solid fence or wall is defined as one in which the openings through which clear vision and the free passage of air from one side to the other does not exceed 25 percent of the fence or wall. All others are open fences or walls. (Section 1102 C)

*(Amd. 04-11-18)*

**Firing Range, Outdoor:** A facility, including its component shooting ranges, safety fans or shotfall zones, parking areas, all structures for classrooms, administrative offices, ammunition storage areas and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. For purposes of this ordinance, outdoor firing ranges are a principal use of property and therefore, shall not be considered incidental or accessory. This ordinance is exclusive of occasional target practice by individuals on property owned or leased by the individuals, sighting of weapons for purposes of hunting, or temporary turkey shoots conducted on a property no more than 12 days in any calendar year. (Sec. 907.1)

*(Amd. 06-17-13)*

**Flea Market:** Sales area (indoors or outdoors) in which space is set aside or rented, and which is intended for use by one or more individuals to sell a variety of articles. (Section 923)

**Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level.

**Floor Area, Net:** The horizontal area of each floor of a building or structure; excluding those areas not directly devoted to the principal, incidental, or accessory use, such as: storage areas, stairwells, elevators, closets, restrooms, maintenance rooms, hallways, and similar areas.

**Food Sales/Grocery Stores:** Stores specializing in the sale of foodstuffs as its principal business with incidental sales of household supplies.

**Garage, Commercial:** Any building or premises, except those described as a private or parking garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

**Garage, Private:** An accessory building or portion of a building permitted in any district allowing residential uses, providing for the storage of private motor vehicles used by the occupants of the principal building, and in which no business, occupation or service for profit is in any way conducted, except in an approved home occupation.

**Golf Course/Driving Range:** Land developed for the recreational purpose of golf, excluding miniature golf courses and including country clubs, private and public courses, driving ranges and pro and snack shops. (Section 908)

**Governmental Use:** A building, structure or facility owned and operated or occupied by a unit of local government of the State, including but not limited to a municipality, any agency of the State, the United States or any State thereof, or any Indian tribe recognized as such by the federal government. This definition does not include any utility, whether owned and/or operated by any public or private agency.

*(Amd. 11-20-06)*

**Group Development:** A group of two or more principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land. (County Subdivision Ordinance)

**Group Home:** A home with support and supervisory personnel, some or all of whom are nonresident, that provides room and board, personal care and habilitation services in a

residential environment to not more than six resident handicapped persons 24 hours a day, seven days a week. (Section 909)

**Group Quarters:** A building or group of buildings, which houses more than two persons in other than a traditional family setting. Housing may be in individual rooms or communal rooms with bathroom facilities and other common use areas. Housing may be free of charge or with a fee (monetary or service). This definition shall not include foster care homes, therapeutic foster care homes or other uses specifically listed in Section 403, Use Matrix, i.e., group homes and residential habilitation support facilities. It does include, but is not limited to, rooming/boarding houses, dormitories, children's homes, religious quarters, membership lodgings, halfway houses, alcohol and drug abuse centers, homeless shelters and hospice facilities. (Section 910)

**Halfway House:** An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation and rehabilitation for prison parolees and juveniles. This shall not include facilities defined and licensed as "group homes." Halfway houses will be regulated as "group quarters." (Section 910)

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

**Hazardous Materials Storage:** The keeping, retention or leaving of hazardous materials in closed containers, tanks, cylinders or similar vessels; or vessels supplying operation through closed connections to the vessel. (Section 911)

**Height:** For purposes of determining vertical (height) limits related to the Airport Overlay District, established and regulated by the Federal Aviation Administration (FAA), the datum shall be *mean sea level* elevation unless otherwise specified.

(Amd.09-16-08)

**Highway Plan:** A plan formally known as "Fayetteville Area Metropolitan Planning Organization Highway Plan" that provides and defines a functional system of streets permitting travel from origins to destinations with directness, ease and safety. Different streets in this system are designed and called on to perform specific functions, thus minimizing the traffic and land service conflict.

**Home Occupation:** Any occupation or profession carried on entirely within a dwelling or accessory building on the same lot by one or more occupants thereof. (Section 1002 A)

**Horizontal Surface Zone:** A plane, circular in shape with its height 150 feet above the established Fayetteville Regional Airport elevation and having a radius from the airport reference point as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

(Amd. 09-16-08)

**Hospital:** An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services primarily for inpatients and including as related: clinic facilities, laboratories, outpatient departments, training facilities and staff offices. (Section 917)

**Hotel:** An establishment which provides compensated lodging on a short-term basis with access to units from interior lobbies or hallways, and provides numerous amenities intended to increase guests' lodging satisfaction. (Amd. 04-22-14)

**Internet café/video gaming:** Any for profit business enterprise, whether as a principal, accessory or incidental use, providing two or more computers and/or other electronic devices for access to the internet, email, applications, video games, or any other similar activity for a fee that either rewards the user in currency or in any manner capable of being converted to currency whether immediate or future or any other form of compensation. This term includes but is not limited to “internet cafes”, “cybercafes”, “sweepstakes”, or “business center”. This term does not include any governmental use.

*(Amd. 10-15-12)*

**Junk Yard:** Any area in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires and bottles. A “junk yard” includes a motor vehicle wrecking yard but does not include uses established entirely within enclosed buildings. It also includes residential outside storage of the above items. (Section 915)

*(Amd. 01-19-10)*

**Kennel:** Any premises where four or more dogs which are five months old or older are kept permanently commercially or as pets, excluding pet grooming shops, veterinary clinics and veterinary hospitals. (Section 912)

*(Amd. 01-19-10; Amd. 10-15-12)*

**Land, Gross Area:** The square footage of all the area included within the external boundary of the property to be developed excluding existing public streets and railroad right-of-ways.

**Land, Net Area:** The land area required to meet the minimum dimensional zoning district standards as required by this ordinance.

**Landfill, Demolition/Inert Debris:** A waste disposal unit that receives wastes which are chemically and physically stable such as: stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth and other solid wastes resulting from construction, demolition or land clearing.

*(Amd. 02-19-08)*

**Landfill, Sanitary:** A facility where waste material and refuse is placed in the ground in layers and covered with earth or some other suitable material each work day. Sanitary landfills shall also conform to requirements of 15A N.C. ADMIN. CODE 13B regarding solid waste management.

**Lateral Access:** The provision of ingress and egress between adjoining or abutting current or future non-residential uses to facilitate the circulation of vehicular traffic between those uses and designed to relieve traffic congestion, provide protection from through traffic, and limit individual driveway access along public rights-of-way.

*(Amd. 04-18-11)*

**Loading Area or Space, Off-Street:** An area logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in computing required off-street parking space. (Article XII)

**Lot:** A parcel of land occupied or intended for occupancy, by a main building or group of main buildings together with any accessory buildings, including such yards, open spaces, width, and area as are required by this ordinance, either shown on a plat of record or described by metes and bounds and recorded with the Register of Deeds.

**Lot, Corner:** A lot abutting the intersection of two or more streets in which access has not been denied, or a lot abutting on a curved street or streets, which streets have an angle of intersection of not more than 135 degrees. (Section 1101 G-Corner Lots, 1102 C-Fences, 1102 D-Corner Visibility, Article XIII, Sign Regulations)

*(Amd. 01-19-10)*



**Lot, Depth:** The depth of a lot is the average distance between the front and back lot lines excluding street rights-of-way.

**Lot, Flag:** A lot where the main body of the lot is separated from the street giving access to the property, but which has an included strip of land at least 20 feet in width connecting the lot to the street, thus providing lot access.

**Lot, Frontage:** The linear feet of property measured along the property line that abuts a public street. On a private street the distance is measured along the right-of-way line adjoining the street.

**Lot, Interior:** A lot other than a corner lot.

**Lot, Through:** A lot, other than a corner lot, having frontage on at least two parallel or approximately parallel streets.

*(Amd. 01-19-10)*

**Lot Lines:** The lines bounding a lot. Where a lot of record includes a public street right-of-way, the lot lines are presumed not to extend into the right-of-way.

**Lot of Record:** A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Cumberland County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the Cumberland County Register of Deeds and, if applicable, meets all requirements of the County Subdivision Ordinance.

**Lot Width:** The straight-line distance between the points where the building setback line intersects the two side lot lines.

**Manufactured Home:** A manufactured building designed to be used as a single-family dwelling unit, which has been constructed and labeled indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. (Section 913)

**Manufactured Home, Class A:** A manufactured 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 the following additional criteria:

A. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

B. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

C. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.

D. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint) or wood or hardboard siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

E. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous permanent masonry foundation, or permanent masonry curtain wall, un-pierced except for required ventilation and access, is installed under the manufactured home.

F. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.

G. The moving hitch, wheels and axles, and transporting lights have been removed.

**Manufactured Home, Class B:** A manufactured 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, but that does not satisfy all of the criteria necessary to qualify the house as a Class A manufactured home.

**Manufactured Home, Class C:** Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home. (Section 913)

**Manufactured Home Park:** A multi-family development on any site or tract of land with more than two spaces intended to be occupied by manufactured homes, regardless of whether a charge is made for such services. Manufactured home parks may include recreational facilities and other incidental structures necessary to support the residents of the park. (County Subdivision Ordinance)  
(Amd. 02-19-08)

**Manufactured Home Space:** A plot of land within a manufactured home park designed for the accommodation of one manufactured home. (County Subdivision Ordinance)

**Massage and Bodywork Therapist:** Any person who is licensed by the North Carolina Board of Massage and Bodywork Therapy to practice massage and bodywork therapy as defined and regulated by N.C. GEN. STAT., Chapter 90.

**Massage and Bodywork Therapy:** Systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes as regulated by N.C. GEN. STAT., Chapter 90, and the North Carolina Board of Massage and Bodywork Therapy. The application may include:

A. Pressure, friction, stroking, rocking, kneading, percussion or passive or active stretching within the normal anatomical range of movement;

B. Complimentary methods, including the external application of water, heat, cold, lubricants and other topical preparations;

C. The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

**Mini-Warehouse/Storage Facilities:** A building, or group of buildings, in a controlled access and/or fenced compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the dead storage of a customer's personal property, goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises. (Section 914)

**Mixed Use:** A single building containing more than one type of land use where the residential use occupies no more than 40 percent of the total building floor area and the non-residential use occupies a minimum of 60 percent of the total floor area or a single development of more than one building and use with the different types of land uses in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. (Article VI & Section 914.1) (Amd. 01-19-10)

**Mobile Storage Units:** Self-contained portable units designed to be temporarily placed on a lot for the purpose of loading and/or unloading the contents, with the unit being transported

to and stored at a permanent storage facility. (Examples include: Pods, U-pack, Mini-Mobile, etc.) (Section 1001.E)

*(Amd. 04-18-11)*

**Modular Structure:** A manufactured structure designed for year-round residential or commercial use, with major components or modules pre-assembled and transported to a site for final assembly, foundation, construction, and utility connection. Such structures must meet all requirements of the North Carolina State Building Code and must have attached a North Carolina Validating Stamp.

**Motel:** An establishment that provides short-term and long-term lodging for compensation, usually with less guest amenities than a hotel, has independent exterior entrances/exits to each unit from the off-street parking area and is typically one or two stories.

*(Amd. 04-22-14)*

**Motor Vehicle:** A machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle, except that said definition shall not include a “manufactured home” or “mobile home” as defined in County Health Department regulations, the County Subdivision Ordinance, and this ordinance.

**Motor Vehicle Parking Lot:** An area or plot of land used for, or designated for, the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use. (Article XII)

**Motor Vehicle Parking Lot, Commercial:** A tract of land which is used for the storage of legally licensed, insured and registered motor vehicles, not accessory to any other use on the same or any other lot, and which contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month.

*(Amd. 02-19-08)*

**Motor Vehicle Parking, Off-Street:** A parking space located outside of a street right-of-way. (Article XII)

**Motor Vehicle Parking Space:** An area of not less than 20 feet in length and nine feet in width for one automobile, plus the necessary access space. (Article XII)

**Motor Vehicle Storage Lot:** A plot of land used for the open storage of vehicles, which does not meet the definition of a junkyard or motor vehicle parking lot.

**Municipal Influence Area:** Areas within the County that are assigned to a specific municipality where that municipality’s development standards shall be applicable. The official Municipal Influence Area Map is filed with the appropriate municipality’s Clerk and the Clerk to the County Commissioners and maintained by the Joint Planning Board.

*(Amd. 02-19-08)*

**Nonconforming Lot:** A lot existing at the effective date of this ordinance or any amendment to it that was created in compliance with the County Subdivision Ordinance in effect at the time of lot creation and that does not meet the minimum area or lot width or depth requirements of the district in which the lot is located. (Sections 1003 & 1004)

**Nonconforming Structure:** An existing structure that does not comply with the intended use or dimensional requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments thereto. (Sections 1003 & 1004)

*(Amd. 01-19-10)*

**Nonconforming Use:** Any existing use of land or structure which does not comply with the use regulations of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments thereto. (Sections 1003 & 1004)

**Nuisance:** Anything that unreasonably interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

**Obscene Matter:** Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance.

**Open Space:** The land used for recreation, natural resource protection, amenities and/or buffer areas. Open space may include, but is not limited to, walkways, recreation areas, playgrounds, wooded areas, greenways and watercourses.

**Ordinance:** This, the Cumberland County Zoning Ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date and the effective date of any amendment to the Zoning Ordinance. This ordinance consists of two parts – a text and a map, in hardcopy or digital format.

**Personal Property:** Property owned, utilized, and maintained by an individual or members of the common residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise that was purchased for resale or obtained on consignment. (Section 1001 D)

**Planning and Inspections Department:** The department established by the County Board of Commissioners, responsible for and tasked with planning and land use matters for the County and contracted municipalities.

*(Amd. 02-19-08)*

**Planning and Inspections Director:** The individual responsible for the leadership of the Cumberland County Planning and Inspections Department, and who serves as advisor to the Cumberland County Joint Planning Board. Throughout this ordinance, references to *Director* include the individual assigned to this position and/or the Director's designee.

*(Amd. 02-19-08)*

**Planning and Inspections Staff:** The staff members assigned to the Planning and Inspections Department who, under the supervision of the Planning and Inspections Director, support the Cumberland County Joint Planning Board and contracted municipalities on planning and land use matters.

*(Amd. 01-19-10)*

**Planning Board:** The Cumberland County Joint Planning Board created by and with members appointed by the County Board of Commissioners for purposes of offering recommendations to the Commissioners and the governing body of contracted municipalities on planning and land use matters and issuing final rulings on matters specifically delegated to the board by the Commissioners.

*(Amd. 02-19-08)*

**Plat/Plan:** A map, usually of land which is to be or has been subdivided, showing the location, boundaries, and ownership of properties; the location, bearing and length of every street and alley line, lot line and easement boundary line; and such other information as may be necessary to determine whether a proposed subdivision or development meets all required standards of this ordinance, the County Subdivision Ordinance, and other applicable ordinances.

**Premises:** A lot and the structure or structures located on it.

**Principal Structure/Principal Uses:** The primary building(s), purpose(s) or function(s) that a parcel or structure serves or is intended to serve.

**Public Utility Station:** A structure or facility used by a public or quasi-public utility agency to store, distribute or generate electricity, gas, communications and related equipment or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

*(Amd. 01-19-10; Amd. 05-18-15)*

**Public Water and/or Sewer:** Municipal, sanitary district, community, and privately-owned water and/or sewer systems as regulated and controlled by the North Carolina Utilities Commission, North Carolina State Board of Health, North Carolina Department of Environment and Natural Resources and the County Health Department.

*(Amd. 02-19-08)*

**Public Way:** Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**Quarry Operations:** The extraction or removal by any means, to include, but not limited to, such activities as blasting, excavating, jacking of minerals, ores or other materials which are processed by washing, wet screening, classifying, crushing, material gradation or other treatment which combines, mixes or blends with other materials. (Section 919)

**Quasi-Judicial:** A hearing where the decision is involving the finding of facts regarding a specific application of this ordinance and the exercise of discretion when applying the standards of this ordinance. Quasi-judicial decisions include decisions involving variances, special use permits and appeals of administrative determinations.

*(Amd. 01-19-10, Amd. 04-18-11)*

**Recreation, Indoor:** An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller-skating or ice-skating, billiards, pool, motion picture theatres and related amusements. (Section 920)

**Recreation, Outdoor:** An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities. (Section 920)

**Recreation, Outdoor (with mechanized vehicle operations):** An area or establishment, which requires the use of motors or engines for the operation of equipment or participation in the activity. This definition includes but is not limited to go-cart tracks, bicycle motorcross (BMX) courses and the like. This definition does not include golf courses (golf carts) or other low impact motorized activities or vehicles.

*(Amd. 01-19-10)*

**Recreational Vehicle:** A vehicle which is built on a single chassis or capable of being placed in or on a vehicle; designed to be self-propelled or towable by a light duty truck; and designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

**Recreational Vehicle Park:** See "Campground/RV Park" above.

**Religious Worship Activity:** Any premises, the principal purpose of which is religious worship and in which the principal structure is the principal place of worship. Accessory uses may include without charge religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall and a one-family dwelling unit (parsonage) but excluding day care facilities, food sales, secondhand shops, festivals, bazaars and facilities for residence or training of religious orders, unless otherwise authorized by the ordinance.

*(Amd. 02-19-08; Amd. 06-15-09)*



**Residential Habilitation Support Facility:** A day care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment to more than six resident handicapped persons. (Section 922)

**Restaurant:** An eating establishment, including cafeterias, cafes, grills, fast-food establishments, etc., that has gross receipts from food sales and non-alcoholic beverage sales of at least 30 percent of the total gross receipts including alcoholic beverage sales. This definition does not include those uses regulated by Section 924.

**Right-of-Way:** An area owned and maintained by a municipality, the State of North Carolina, a public utility, a railroad or a private entity for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities or railroads.

**Septage:** A fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic waste origin removed from a sewage collection, treatment and disposal system.

**Septage Disposal Site:** A site that has been approved for the disposal of septage by the County Health Department, and if applicable, the North Carolina Department of Environment and Natural Resources.

**Setback:** The distance or separation between every structure with other structures, whether on the same or separate lots, and every structure and the lot lines of the lot on which it is located as required by this ordinance and/or the County Subdivision Ordinance. (Section 1104)

*(Amd. 01-19-10)*

**Sexually Oriented Business:** Any business or enterprise that has as one of its principal business purposes or as a predominant purpose of its business an emphasis on matter and conduct depicting, describing or related to anatomical areas and sexual activities specified in N.C. GEN. STAT. §14-202.10. (Section 924)

**Shopping Center:** A group of retail and other commercial establishments that is planned and designed for the site on which it is built, functioning as a unit, with common entrance ways, off-street parking, landscaped areas, and pedestrian paths provided on the property as an integral part of the unit.

**Sign:** See Section 1302 for all sign-related definitions.

**Site Plan:** A scaled drawing depicting uses and structures proposed for a parcel of land as required by this ordinance and the County Subdivision Ordinance. It includes such things as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, buildings, major landscape features—both natural and manmade—and, depending on requirements, the locations of proposed utility lines. The specific criteria for site plans are found in Article XIV.

**Site-Specific Vesting Plan:** A plan used to determine development vested rights. This plan can include, but is not limited to, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as recognized by the County.

*(Amd. 02-01-21)*

**Solar Farm:** The components and subsystems required to convert solar energy into electric or thermal energy suitable to supply merchant power to the electricity grid. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, land area required for setbacks, landscaping and signage. This term applies, but is not limited to, solar photovoltaic (PV) systems and solar thermal systems. This term does not apply to roof mounted on any code-compliant structure, ground mounted and in compliance with

accessory structure provisions as contained within this ordinance, or any building integrated solar (i.e., shingle, hanging solar, canopy).

*(Amd. 05-18-15)*

**Solid Waste Disposal Facility:** Any depository of solid waste, excluding earth for fill and septage. This definition includes, but is not limited to, sanitary landfills, sewage treatment facilities and waste incinerators. This definition does not include “Convenience Container and Recycling Facilities” as defined herein. (Section 925)

*(Amd. 3-17-09)*

**Special Use:** Those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics, or qualities that require comprehensive review at a public hearing by the County Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions. (Section 1606) *(Amd. 04-18-11)*

**Special Use Permit:** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.” (Section 1606)

*(Amd. 02-01-21)*

**Street:** A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.

**Street, Private:** Any road, street, or alley which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public. (This does not include neighborhood public roads, cart paths and ingress/egress easements.) Requirements for private streets are in the County Subdivision Ordinance.

**Street, Public:** A dedicated, and accepted for maintenance purposes, public right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

*(Amd. 02-19-08)*

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in a permanent manner.

*(Amd. 02-19-08)*

**Subdivision:** All divisions of a less than ten acre tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development, whether immediate or future, with certain modifications as more particularly defined in the County Subdivision Ordinance.

**Swimming Pool, Private:** Any structure which contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a single-family residence and which is available only to the family and guests of the house holder. This includes in-, on- and above-ground swimming pools. (Section 1002 C)

**Swimming Pool, Public:** Any swimming pool that does not meet the definition of “Private, Swimming Pool” located above. The County Subdivision Ordinance and the County Health Department also regulate public swimming pools. (Section 1002 C)

**Temporary:** A permit or event for a limited period of time. (Section 1001)

**Therapeutic Foster Care Home:** A 24-hour residential treatment facility located in a private residence which provides professionally trained parent substitutes who work intensively with

children and adolescents who are emotionally disturbed or have a substance problem, or both. These homes shall not serve more than two children or adolescents.

**Tower:** Any fabricated structure or device including, but not limited to, relay stations for commercial operations, such as cable television, telecommunication, radio, television stations and the operation of such uses. "Tower" shall not include structures that support antennae or similar devices that support or facilitate HAM radio or Citizen Band communication. (Section 927)

**Townhouse:** A single structure on its own separate lot containing one dwelling unit that occupies space from the ground to the roof and is attached to one or more other dwelling units by at least one common wall.

(Amd. 02-19-08)

**Transitional Zone:** The areas within the Fayetteville Regional Airport airspace that extends outward and upward from the sides of the approach zones for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

(Amd. 09-16-08)

**Unit:** A use, group, structure, or other entity regarded as an elementary structural or functional constituent of a whole.

(Amd. 02-19-08)

**Variance:** A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. (Section 1605)

**Vehicular Surface Area:** An area primarily used for the parking of private passenger vehicles. "Vehicular surface area" includes the means of ingress and egress to the area where motor vehicles are parked. "Vehicular surface area" includes any median, traffic island, or other traffic control device or structure contained wholly within the vehicular parking area. "Vehicular surface area" does not include covered vehicle parking areas or multi-level vehicle parking areas.

(Amd. 01-19-10, Amd. 04-18-11)

**Vertical Mixed Use:** Buildings erected for two or more different uses, providing space for non-residential uses on the ground floor with residential areas located on the upper floors and functionally designed to share vehicular and pedestrian access and parking areas. (Article VI)

**Vocational School:** A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills primarily within classrooms or work sites enclosed in buildings to prepare individuals to enter the workforce; to obtain a two-year degree and transfer to a four-year college or university after graduation; or to seek a diploma or certificate program to quickly obtain knowledge and expertise in specialized areas. Incidental instructional services in conjunction with a principal use listed in Section 403 shall not be considered a vocational school and nor shall any use that includes an outdoor shooting range be considered a vocational school.

(Amd. 08-18-14)

**Yard, Front:** An area of which the width is measured the entire length of the front property line between the side property lines; and the depth is measured as the distance between the street right-of-way or property line and the required front setback line.

**Yard, Rear:** An area of which the width is measured the entire length of the rear property line between the side property lines; and the depth is measured as the distance between the property line and the required rear setback line.

**Yard, Side:** An area extending from the required front setback to the required rear setback, or to the front or rear property lines where no front or rear setback is required by the provisions of this ordinance, the minimum and average dimensions of which are determined by the standards of property development of the zoning district in which such lot is located.

**Yard Sale:** All general sales open to the public, conducted from or in an area that is residentially zoned or residentially used for the purpose of disposing of personal property including, but not limited to, all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” or “rummage sale.” (Section 1001 D)

**Zero Lot Line Development:** A single development including, but not limited to, patio houses, townhouses, condominiums, businesses, individual lots and including one or more structures comprising at least two individual lots, dwelling units, or businesses, whether attached or detached, intended for separate ownership and developed in accordance with the standards of the County Subdivision Ordinance.

*(Amd. 02-19-08)*

**Zoning:** A police power measure, enacted by the County Commissioners pursuant to enabling statutes, in which the County is divided into districts or zones within which Permitted, Conditional, and Special Uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.

**Zoning District:** An area established by this ordinance where the individual properties are designed to serve compatible functions and to be developed at compatible scales.

## **ARTICLE III ZONING DISTRICTS**

### **SECTION 301. ESTABLISHMENT OF DISTRICTS.**

For the purpose of this ordinance, the areas shown on the County’s zoning map are divided into the following general classes of districts.

### **SECTION 302. CONSERVANCY DISTRICT.**

CD Conservancy District. This district is designed to preserve and protect identifiable natural resources from urban encroachment. The general intent of the district is to provide open area uses for such resource areas that will continue to provide limited development potential while preserving existing conditions to the extent feasible. Areas to be zoned in this district shall be identifiable as swamp, marsh, flood land, poor or very severe soils areas or managed and unmanaged woodland on USGS (Geological Survey) maps, soil maps prepared by the USDA (Department of Agriculture) Soil Conservation Service or other appropriate sources and on file in the County Planning and Inspections Department.

### **SECTION 303. AGRICULTURAL DISTRICTS.**

A. A1 Agricultural District. This district is designed to promote and protect agricultural lands, including woodland, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development except for large lot, single-family development. Some public and/or semi-public uses as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.

B. A1A Agricultural District. This district is primarily designed to allow for residential use of single-family residential dwellings and/or Class A manufactured homes on lots with an area of one acre or greater and is to be located within predominantly agricultural areas. The district is not intended to encourage large scale developments and shall not be considered for tracts of land greater than ten acres.

#### **SECTION 304. RESIDENTIAL DISTRICTS.**

Residential districts are composed of certain existing residential areas of the County and certain areas where similar residential development should be encouraged to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of each district by promoting and encouraging a suitable environment for family life and prohibiting certain incompatible activities of a commercial or industrial nature. To these ends, development is limited to dwellings that provide homes for the residents plus certain additional such uses as schools, parks, recreation facilities and certain other public facilities. This system of classification optimizes orderly development by providing a variety of living environments based on different levels of permitted population density, facilitating the adequate provision of transportation and other public services.

*(Amd. 04-18-11)*

A. R40 Residential District. A district designed primarily for single-family dwelling units with a lot area of 40,000 square feet or above.

B. R40A Residential District. A district designed primarily for single-family dwelling units including the use of manufactured homes on individual lots with a lot area of 40,000 square feet or above.

C. R30 Residential District. A district designed primarily for single-family dwelling units with a lot area of 30,000 square feet or above.

D. R30A Residential District. A district designed primarily for single-family dwelling units and Class A manufactured homes with a lot area of 30,000 square feet or above.

E. R20 Residential District. A district designed primarily for single-family units with a lot area of 20,000 square feet or above.

*(Amd. 2-21-06)*

F. R20A Residential District. A district designed primarily for single-family units and Class A manufactured homes with a lot area of 20,000 square feet or above.

*(Amd. 2-21-06)*

G. RR Rural Residential District. A district for traditional rural use with lots of 20,000 square feet or above. The principal use of the land is for suburban density residential, including manufactured housing units, and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide for a healthful environment.

*(Amd. 01-19-10, Amd. 04-18-11)*

H. R15 Residential District. A district designed primarily for single-family dwelling units with a lot area of 15,000 square feet or above.

I. R7.5 Residential District. A district designed primarily for single-family dwellings on lots with a lot area of 7,500 square feet or above.

*(Amd. 11-20-06)*

J. R6 Residential District. A district designed for a mix of single- and multi-family dwellings.

K. R6A Residential District. A district designed for a mix of single- and multi-family dwellings including the use of manufactured homes on individual lots and in manufactured home parks.

L. R5A Residential District. A district designed primarily for multi-family dwelling units with a maximum density of 13 ½ dwelling units per net acre.

*(Amd. 02-19-08)*



M. R5 Residential District. A district designed primarily for multi-family dwelling units with a maximum density of 29 units per acre, dependent upon the type of development.  
(Amd. 02-19-08)

### **SECTION 305. PLANNED PROFESSIONAL DISTRICT.**

O&I(P) Planned Office and Institutional District. This district is designed primarily for agencies and offices rendering services in the professions, finance, real estate and brokerage, as well as both public and private institutional functions, public assembly, religious and certain cultural and recreational activities and group housing. The uses in this district classification may be characterized generally as having no retail or wholesale trade, except as incidental uses. The district is often situated between business and residential areas and may also consist of a mix of limited business and residential uses. The regulations are designed for maintaining more compatibility with nearby residential districts than a commercial district would provide. To promote the essential design features with the O&I(P) district, plan approval is a requirement.  
(Amd. 04-18-11)

### **SECTION 306. PLANNED COMMERCIAL DISTRICTS.**

A. C1(P) Planned Local Business District. This district is designed to cater to the ordinary shopping needs of the immediate neighborhood with emphasis on convenience goods. This district is customarily located adjacent to an arterial street and generally surrounded by residential areas. To promote the essential design features with the C1(P) district, plan approval is a requirement.

B. C2(P) Planned Service and Retail District. This district is designed to allow for the non-residential development of land with service and retail uses not typically considered intrusive to neighboring residential properties or in areas generally requiring a greater degree of restrictions regarding the commercial use of properties.  
(Amd. 02-19-08)

C. C(P) Planned Commercial District. This district is designed to assure the grouping of buildings on a parcel of land so as to constitute a harmonious, efficient and convenient retail shopping area. Site plans assure traffic safety and the harmonious and beneficial relations between the commercial area and contiguous land. To promote the essential design features with the C(P) district, plan approval is a requirement.  
(Amd. 02-19-08)

### **SECTION 307. PLANNED INDUSTRIAL DISTRICTS.**

A. M1(P) Planned Light Industrial District. This district is designed for a wide variety of light industrial operations involving manufacturing, processing and fabrication of materials, operations involving wholesaling and bulk storage, other non-retail uses and certain public assembly and recreational uses. The general intent of the district is to prohibit residential, retail and heavy industrial uses of the land. By their nature, the uses permitted in this district are generally not compatible with residential or shopping center uses. To promote the essential design features with the M1(P) district, site plan approval is a requirement.  
(Amd. 02-19-08)

B. M(P) Planned Industrial District. This district is designed primarily for basic manufacturing and processing industries, all of which normally create a high degree of nuisance and are not generally compatible with surrounding or abutting residential or commercial areas. The general intent of this district is to permit uses confined to service, wholesaling, manufacturing, fabrication and processing activities that can be carried on in an unobtrusive manner characterized by low concentration and limited external effects with suitable open spaces, landscaping, parking and service areas. This district is customarily located on larger tracts of land with good highway and rail access buffered from residential districts by other more compatible uses. Commercial activities are not permitted except

those having only limited contact with the general public and those not involving the sale of merchandise at retail except for items produced on the premises or for the purpose of serving employees, guests and other persons who are within the district with an industrial activity. To promote the essential design features within the M(P) district, site plan approval is a requirement.

*(Amd. 02-19-08, Amd. 09-16-08)*

### **SECTION 308. CONDITIONAL ZONING DISTRICTS.**

A. Companion Districts. Each district includes a companion Conditional Zoning district (e.g. A1 has A1/CZ) where no uses are permitted by right. This district is designed for the development and use of the property subject to predetermined ordinance standards and rules imposed as part of the legislative decision creating the district and applying it to the particular property. (Article V)

B. Mixed Use Development – Conditional Zoning District (MXD/CZ). The purpose of this district is to encourage innovative development on a conditional basis by providing use flexibility while maintaining quality design standards tempered with proper controls regarding buffering, landscaping, open space designation, density and other conditions. (Article VI)

C. Planned Neighborhood Development – Conditional Zoning District (PND/CZ). A district designed for the planned development of various residential densities concurrent with neighborhood-oriented uses in a single project. (Article VII)

D. Density Development – Conditional Zoning District (DD/CZ). The purpose of this district is to promote the preservation of open space and the rural areas within the County, through permanent restriction of development on a percentage of a tract, buffering, and clustering of lots, while at the same time providing for the residential development of land. (Article VIII)  
*(Amd. 04-18-11)*

### **SECTION 308.1. OVERLAY DISTRICTS.**

Overlay districts establish area-specific provisions which are in addition to the regulations applying to the underlying general and Conditional Zoning districts and in addition to the minimum requirements of this ordinance for Special Uses.

*(Amd. 04-18-11)*

A. Airport Overlay District (AOD). The purpose of this district is to protect the public health, safety and welfare in the vicinity of the Fayetteville Regional Airport by minimizing exposure to and giving public notice of probable high noise levels and accident hazards generated by the airport operations and to encourage future development that is compatible with the continued operation of the airport and the economic well being of the County.

B. Coliseum Tourism Overlay District (CTOD). The primary purpose of this district is to ensure development within the district boundary is compatible with the objective of promoting the Crown Coliseum Complex and establishing the image as a contemporary, vibrant retail area that is harmonious with the complex events. Ensuring that new construction and redevelopment is oriented to serving the users of the coliseum complex, particularly the traveling public, the economic well being of the county will be maximized.

C. *Reserved for future use.*

*(Amd. 09-16-08; Amd. 04-22-14)*

### **SECTION 309. DORMANT/CORRESPONDING ZONING DISTRICTS.**

This amendment (June 20, 2005) of the ordinance makes dormant certain previously existing zoning districts created under the County Zoning Ordinance of July 3, 1972, and subsequent amendments. The PND Planned Neighborhood district is now dormant and development shall either comply with the standards of the R7.5 Residential District or shall be submitted for

approval under Article VII. The following previously existing zoning districts now correspond to current districts as indicated:

*(Amd. 01-19-10)*

A. HS(P) Planned Highway Services District shall correspond to the C(P) Planned Commercial District;

B. C3 Heavy Commercial District shall correspond to the C(P) Planned Commercial District; and

C. M2 Heavy Industrial District shall correspond to the M(P) Planned Industrial District.

D. R10 Residential District shall correspond to R7.5 Residential District.

*(Amd. 11-20-06)*

### **SECTION 310. ZONING DISTRICTS MAP.**

The boundaries of the districts are shown on a map in digital format, which is to be considered a part of this ordinance and made a part hereof entitled "Official Zoning Map, Cumberland County, North Carolina". The zoning map and all the notations, references and amendments thereto, and other information shown thereon, are hereby made a part of this ordinance the same as if such information set forth on the map were all fully described and set out herein. The zoning map is a public record and shall be kept on file with the County Planning and Inspections Department, where it shall be available for inspection by the public.

Regardless of the existence of purported copies of the zoning map, which may from time to time be made or published, the zoning map on file with the Planning and Inspections Department and amendments thereto, as entered in the minutes of the Board of Commissioners, shall be the final authority as to the current zoning status of lands, buildings and other structures in the zoning districts.

### **SECTION 311. INTERPRETATION OF DISTRICT BOUNDARIES.**

If dispute exists as to the boundaries of any district shown on the zoning maps, the following rules shall apply:

A. Extensions of Line. Where such district boundaries are indicated as approximately following a street or railroad rights-of-way, alley lines and lot lines, or extensions of such lines, those shall be considered to be such boundaries. Where district boundaries are indicated as approximately following the centerline of streambeds or riverbeds, or such centerlines extended, such centerlines shall be considered to be such boundaries.

B. Un-Developed Property. For un-developed property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale of the map.

*(Amd. 02-19-08)*

C. Natural, Developed, or Topographical Features. Where natural, developed, or topographical features existing on the ground are at variance with those shown on the zoning maps, or in other circumstances not covered by sub-sections A and B above, the Board of Adjustment shall interpret the district boundaries.

D. Jurisdiction After Annexation. When any portion of the territory subject to this ordinance as shown on the zoning map shall be annexed into the corporate limits of a municipality, such area or areas shall remain subject to the provisions of this ordinance for a maximum period of 60 calendar days thereafter, or until such time that the area or areas are subject to the municipal regulations, whichever occurs first, at the conclusion of which time zoning jurisdiction shall pass to the municipality.

*(Amd. 01-19-10)*

## **ARTICLE IV PERMITTED, CONDITIONAL, AND SPECIAL USES**

### **SECTION 401. GENERAL.**

Within the various zoning districts established in Article III and subject to the requirements of this ordinance, no land, building or structure shall be used, and no building or structure shall be erected which is intended or designed to be used, in whole or in part for any use other than the uses allowed by the various districts established herein. The use regulations for the various districts are intended to be permissive in nature. Some land uses may be allowed through Conditional Zoning or by issuance of a Special Use Permit only upon findings that certain conditions exist or should be applied and is requested and agreed to by the property owner. The establishment of these uses shall be allowed only after review through appropriate measures and approval of plans.

Permitted uses in the various districts are indicated in the appropriate column of the following matrix. Special Uses, with Board of Adjustment approval and issuance of the Permit, and some uses in Conditional Zoning districts, after Board of Commissioner approval are also indicated in the matrix. All proposed non-residential uses, including changes in an existing use, in any planned district require site plan review and approval and shall be in compliance with the standards of this ordinance and the County Subdivision Ordinance.

*(Amd. 04-18-11)*

### **SECTION 402. USES BY RIGHT.**

All uses of property are allowed as a use by right except where this ordinance specifies otherwise or where this ordinance specifically prohibits the use. In the event, a use of property is proposed that is not addressed by the terms of this ordinance, the minimum ordinance standards for the use addressed by this ordinance that is most closely related to the land use impacts of the proposed use shall apply. In addition, the Ordinance Administrator may initiate a text amendment addressing such proposed use, provided that the drafting and adoption of said amendment will not cause delay in the permitting of the proposed use.

*(Amd. 04-18-11)*

### **SECTION 403. USE MATRIX.**

The matrix on the following pages indicates Permitted and Special uses as well as some uses allowed only in a Conditional Zoning district.

*(Amd. 04-18-11)*

This space was intentionally left blank.

**SECTION 403 USE MATRIX**

CUMBERLAND COUNTY ZONING ORDINANCE  
P = PERMITTED USE  
S = SPECIAL USE (Sec. 1606 Board of Adjustment)  
Z = CONDITIONAL ZONING (Article V – County BOC)

LAND USES	ZONING CLASSIFICATIONS																					
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
ACCESSORY USES, Incidental to any permitted use (Sec. 1002)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
ADDRESSING SERVICE/BULK MAILING																				P	P	P
AGRICULTURAL OR RURAL FARM USE	P	P	P	P	P	P	P	P	P	P	P	P	P	P								
AIRPORT OPERATIONS, minor (Sec. 902)		S																			S	S
AIRPORT OPERATIONS, major																						P
ALCOHOLIC BEVERAGE CONTROL SALES																				P		
APPAREL AND ACCESSORY SALES																		P	P	P		
ASSEMBLIES, Community, assembly hall, armory, stadium, coliseum, community center, fairgrounds etc. (Sec. 916)		P	P	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P
AUCTION SALES, excluding livestock auctioning & motor vehicles																				P	P	P
BAKERY PRODUCTION AND WHOLESALE SALES																				P	P	P
BAKING, on premises and retail only																		P	P	P		
BANKS, SAVINGS AND LOAN COMPANY AND OTHER FINANCIAL ACTIVITIES																	P	P	P	P		
BARBERING AND HAIRDRESSING SERVICES/SALONS (Sec. 916)		S																P	P	P		
BARS & NIGHT CLUBS, except as regulated by Sec. 924																				P		
BED AND BREAKFAST (Sec. 903), except as regulated by Sec. 924		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P		
BILLBOARDS (SEC 1307)																				S		P
BINGO																		P		P		
BOOKS & PRINTED MATTER SALES, except as regulated by Sec. 924																	P	P	P	P	P	P
BORROW SOURCE OPERATIONS (Sec. 904)		S																			S	S
BOTTLED GAS DISTRIBUTING, bulk storage																					P	P
BOTTLING																						P
BUILDING SUPPLY																			P	P	P	P
BUS STATION ACTIVITIES, storage terminal activities																				P	P	P
CABINET MAKING AND OTHER WOODWORKING																					P	P
CALL CENTER																						P
CEMETERY, public (Sec. 916)		P		S	S			S										P	P	P	P	P



**SECTION 403 USE MATRIX****CUMBERLAND COUNTY ZONING ORDINANCE**

P = PERMITTED USE

S = SPECIAL USE (Sec. 1606 Board of Adjustment)

Z = CONDITIONAL ZONING (Article V – County BOC)

LAND USES	ZONING CLASSIFICATIONS																					
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
CLUB OR LODGE (Sec. 905), except as regulated by Sec. 924		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	P		
CONVENIENCE CONTAINER AND RECYCLING FACILITY (Sec. 905.1)		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P
CONVENIENCE RETAIL W/ GASOLINE SALES, including drive thru motor vehicle washing (Sec 916)		P																P	P	P	P	P
COTTON GIN (Sec. 916)		P	P																		P	P
CREMATORIUM																				P	P	P
DAY CARE FACILITY (Sec. 906)		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	S <sup>1</sup>	S <sup>1</sup>
DETENTION FACILITIES/PRISONS (Sec. 907)		Z	Z																	Z	Z	Z
DISTILLERY, small																				P		
DRY CLEANING AND LAUNDRY COLLECTION, no cleaning on premises except in conjunction with service counter, provided not more than 2500 square feet are devoted to these processes																		P	P	P		
DRY CLEANING/LAUNDRY, self service																		P	P	P		
DRY CLEANING OR LAUNDRY, commercial																				P	P	P
DWELLING, SINGLE & MULTIPLE FAMILY		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>	S <sup>2</sup>		
EXTERMINATING SERVICES																			P	P	P	P
EQUESTRIAN FACILITIES		P	P	P	P	P	P	P	S	S												
FARM SUPPLIES MERCHANDISING & MACHINERY SALES/SERVICING (Sec. 916)		P																	P	P	P	P
FIRE STATION OPERATIONS/EMERGENCY SERVICES (Sec. 916)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
FIRING RANGE, OUTDOOR (Sec. 907.1)		Z																				
FISH HATCHERY (Sec. 916)	P	P																			P	P
FLOWER SHOP																		P	P	P		
FOOD PROCESSING																					P	P
FOOD PRODUCTION, with on premises retail sales of product																			P	P		
FOOD PRODUCTION/WHOLESALE SALES																				P	P	P
FOOD SALES/GROCERY STORES (Sec. 916)		P																P	P	P		
FUNERAL HOME, incl. incidental crematorium		P															P	P	P	P		
GOLF COURSES (Sec. 908)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
GROUP HOME, six or less clients (Sec. 909)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
GROUP QUARTERS (Sec. 910)		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
HARDWARE, PAINT & GARDEN SUPPLY SALES																		P	P	P		
HAZARDOUS WASTE STORAGE/DISPOSAL FACILITY (Sec. 911)																					S	S
HOME FURNISHING AND APPLIANCE SALES																			P	P		

<sup>1</sup>Only in approved industrial parks / <sup>2</sup>Special Use Permit required for Mixed Use Building, see Section 914.1 (Amd. 01-19-10)

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

**SECTION 403 USE MATRIX**

CUMBERLAND COUNTY ZONING ORDINANCE P = PERMITTED USE S = SPECIAL USE (Sec. 1606 Board of Adjustment) Z = CONDITIONAL ZONING (Article V – County BOC)																							
LAND USES				ZONING CLASSIFICATIONS																			
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)	
HOME OCCUPATIONS, Incidental (Sec.1002A)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
HOTEL/MOTEL, except as regulated by Sec. 924																			P	P			
INDUSTRIAL OPERATIONS NOT OTHERWISE PROHIBITED																						P	
INDUSTRIAL SALES OF EQUIPMENT OR REPAIR SERVICE																					P	P	
INTERNET CAFÉ/VIDEO GAMING																				P			
JANITORIAL SERVICE																			P	P	P	P	
KENNEL OPERATIONS <sup>3</sup> (Sec. 912)		P	S	S	S														P	P	P	P	
LABORATORY OPERATIONS, medical or dental																	P	P	P	P			
LABORATORY, RESEARCH																	P	P	P	P	P	P	
LANDFILL, DEMOLITION/INERT DEBRIS																					P	P	
LIBRARY (Sec. 916)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
LIVESTOCK SALES & AUCTIONING (Sec. 916)		P																			P	P	
LOCKSMITH, GUNSMITH																			P	P	P		
MACHINE TOOL MANUFACTURING OR WELDING																						P	
MANUFACTURED HOME CLASS A, for residential occupancy		P	P		P		P	P		P				P <sup>4</sup>									
MANUFACTURED HOME CLASS B, for residential occupancy		P			P			P						P <sup>4</sup>									
MANUFACTURED HOME CLASS C, for residential occupancy (Sec. 913)														P <sup>4</sup>									
MANUFACTURED HOME PARK (County Subdivision Ordinance), excluding any manufactured home sales														P									
MANUFACTURED HOME SALES																				P	P	P	
MASSAGE & BODYWORKS THERAPY																		P	P	P			
MILLING OR GRINDING GRAIN AND SEED INTO FOOD (Sec. 916)		P																			P	P	
MINI-WAREHOUSING (SELF-STORAGE FACILITY) (no outside commercial storage of motor vehicles (Sec. 914))		P														S	S	P	P	P	P	P	
MINI-WAREHOUSING (SELF-STORAGE FACILITY) (including outside commercial storage of motor vehicles)		S																		P	P	P	
MONUMENT SALES																				P	P	P	
MONUMENT WORKS																					P	P	
MOTOR VEHICLE PARKING LOT, commercial																	P	P	P	P		P	

<sup>3</sup>Repealed. (Amd. 01-19-10; Amd.10-15-12)<sup>4</sup>Group developments in the R6A Residential district shall not be approved for more than one manufactured dwelling unit. (Amd. 08-20-12)

**SECTION 403 USE MATRIX**

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LAND USES	ZONING CLASSIFICATIONS																					
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
MOTOR VEHICLE PARTS AND ACCESSORIES SALES, contained within a building and without storage																		P	P	P		
MOTOR VEHICLE REPAIR AND/OR BODY WORK (Sec. 916), excluding commercial wrecking/dismantling/storage of junked vehicles		P																		P	P	P
MOTOR VEHICLE RENTALS																			P	P	P	P
MOTOR VEHICLE SALES, new and used, including motor vehicle auctions																			P	P	P	P
MOTOR VEHICLE SERVICE STATION OPERATIONS (Sec. 916)																		P	P	P	P	
MOTOR VEHICLE STORAGE YARD																					P	P
MOTOR VEHICLE WASHING																			P	P	P	P
MOTOR VEHICLE WRECKING YARDS AND JUNKYARDS (Sec. 915) including sale of parts																					S	P
NURSERY OPS/PLANT HUSBANDRY/GREENHOUSES (Sec. 916)	P	P						P											P	P	P	P
NURSING HOME/CONVALESCENT HOME/HOSPITAL/RETIREMENT HOME, etc. (Sec. 917)		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P		
OFFICE SUPPLIES AND EQUIPMENT SALES AND SERVICE/MAILBOX SERVICE																			P	P		
OFFICE USE – of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession, clinics (Sec. 916)		P	P	P	P			P									P	P	P	P		
OFFICE USE – with no on-premises stock or goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material																	P	P	P	P		
PET SALES, excluding kennel activities or outside storage of animals																			P	P		
PHOTOGRAPHY STUDIO																	P	P	P	P		
PRINTING AND REPRODUCTION LARGE SCALE, => 4000 sq. ft.																				P	P	P
PRINTING AND REPRODUCTION SMALL SCALE, <4000 sq. ft.																	P	P	P	P		

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	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)	
PUBLIC/COMMUNITY UTILITY STATIONS/SUBSTATIONS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
PUBLIC UTILITY WORKS, SHOPS OR STORAGE YARDS (Sec. 918)		S																	P	P	P	P	
PUBLISHING																					P	P	
QUARRY (Sec. 919)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
RADIO OR TELEVISION STUDIO ACTIVITIES ONLY																	P	P	P	P			
RAILROAD STATION/OPERATIONS																				P	P	P	
RECREATION/AMUSEMENT INDOOR (Sec. 920) conducted inside building for profit, not otherwise listed & not regulated by Sec. 924								P											P	P			
RECREATION/AMUSEMENT OUTDOOR (Sec. 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P	P	S	S	S	S	S	S	S	S	S	S							S	P			
RECREATION/AMUSTMENT OUTDOOR (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924		P																		P			
RECREATION OR AMUSEMENT PUBLIC/PRIVATE (Sec. 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not regulated by Sec. 924	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
RECREATION VEHICLE PARK AND/OR CAMPGROUNDS (Sec. 921)	S	S	S					S											P	P			
RELIGIOUS WORSHIP ACTIVITIES		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
REPAIR, RENTAL AND/OR SERVICING, of any product the retail sale of which is a use by right in the same district																		P	P	P	P	P	
RESIDENTIAL HABILITATION SUPPORT FACILITY (Sec. 922)		S	S		S			S									P	P		P			
RESTAURANT, operated as commercial enterprise, except as regulated by Section 924																		P	P	P			
RETAILING OR SERVICING. With operations conducted and merchandise stored entirely within a building and not otherwise listed herein																			P	P			
SANITARIUM																	P						

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LAND USES				ZONING CLASSIFICATIONS																		
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
SAWMILL AND/OR PLANING OPERATION (Sec. 916)	P	P																			P	P
SCHOOL, business and commercial for nurses or other medically oriented professions, trade, vocational & fine arts																	P	P	P	P	P	P
SCHOOLS, public, private, elementary or secondary (Sec. 916)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
SECOND-HAND, PAWN AND FLEA MARKET (Sec. 923)																				P		
SEPTAGE DISPOSAL SITE		P																			P	P
SEXUALLY ORIENTED BUSINESSES (Sec. 924)																				S		P
SHEET METAL FABRICATION																						P
SOLAR FARM		P																			P	P
SOLID WASTE DISPOSAL FAC. (Sec. 925)		S	S																			S
SPECIAL INFORMATION SIGNS (Sec. 1304 D)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
STORAGE-FLAMMABLE																						P
STORAGE-OPEN																						P
STORAGE-WAREHOUSE																						P
SWIMMING POOLS, Incidental to a principal use, (Sec. 1002C)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
TAILORING (Dressmaking)																		P	P	P		
TAXICAB STAND OPERATION																			P	P		
TELEPHONE SWITCHING/BOOSTER STATION		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
THEATER PRODUCTIONS, indoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924																		P	P	P		
THEATER PRODUCTIONS, outdoor (Sec. 926), which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924		S	S					S											S	P		
TIRE RECAPPING																						P
TOWER (Sec. 927)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P
TRADES CONTRACTOR ACTIVITIES, with or without outside storage of equipment or supplies																			P	P	P	P
TRAILER RENTALS, Including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein																				P	P	p



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LAND USES	ZONING CLASSIFICATIONS																					
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)
TRUCK TERMINAL ACTIVITIES, repair & hauling and/or storage																				P	P	P
UPHOLSTERING OR FURNITURE REFINISHING																			P	P	P	P
VARIETY, GIFT AND HOBBY SUPPLY SALES																		P	P	P		
VENDING MACHINE RENTAL																				P	P	P
VETERINARIAN (Sec. 916)		P	P	P	P			P											P	P		
WHOLESALE SALES, with operations conducted and merchandise stored entirely within a building and not otherwise listed herein																				P	P	P
WIRELESS COMMUNICATIONS & ACCESSORY SALES																		P	P	P		

(Section 403 amendments: Amd. 02-21-06, Amd. 02-19-08, Amd. 03-17-09, Amd. 01-19-10; Amd. 04-18-11; Amd.08-20-12; Amd.04-20-15; Amd. 04-20-20)

## **ARTICLE V**

### **COMPANION DISTRICTS –CONDITIONAL ZONING DISTRICTS**

#### **SECTION 501. GENERAL.**

The Conditional Zoning districts set forth herein are authorized by N.C. GEN. STAT. §160D-703 and are intended to modify the uses to which the parallel zoning district is restricted. Generally, an applicant, by seeking to rezone property to a Conditional Zoning district, will propose to restrict or eliminate Permitted, Conditional or Special Uses. Request for Conditional Zoning district rezoning shall be processed administratively in the same manner as for amendments to this ordinance as established in Article XV.

Conditional Zoning districts are floating districts that parallel general zoning districts. Conditional Zoning districts are identical to their corresponding general zoning districts in all respects except that a permit is required as a prerequisite to any use (Permitted, Conditional or Special) or development within them.

Parallel Conditional Zoning districts are provided as a voluntary alternative method of petitioning the Board of Commissioners for a zoning map or classification change. The owner may submit conditions that restrict the uses that would otherwise be allowed in the zoning district and only those uses specifically requested in the application shall be considered.

*(Amd. 02-19-08; Amd. 04-18-11; Amd. 02-01-21)*

#### **SECTION 502. RESTRICTIONS ON FILING OF APPLICATIONS.**

A request for a Conditional Zoning district rezoning shall be initiated only by an application [petition] signed by all current record owners of the property.

*(Amd. 11-20-06; Amd. 04-18-11)*

#### **SECTION 503. CONTENT OF APPLICATIONS AND CONDITIONS.**

The Conditional Zoning district application shall provide the minimum information requirements set forth below; however, additional information may be required by the Planning and Inspections Staff, Planning Board or the Board of Commissioners when requested if any of the aforementioned deem it necessary in order to be able to make a recommendation on, or decision regarding, the application. Such requests may include a requirement for a more detailed site plan, or one modified in accordance with additional or modified conditions and other performance criteria.

*(Amd. 02-19-08; Amd. 04-18-11)*

A. Proposed Uses: Proposed uses shall be set forth in detail, including the compatibility with the uses in the neighboring districts. Any limitations or conditions to be placed on the proposed uses to enhance compatibility with and benefit to surrounding areas shall also be set forth.

B. Dimensional Requirements: The application shall show that the uses comply with dimensional requirements for the district requested. If the applicant proposes to vary the dimensional requirements for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such dimensional requirement are met to an equal or greater degree.

C. Sign Requirements: The application shall indicate the location of signs in accordance with Article XIII, Sign Regulations. If the applicant proposes to vary the sign provisions for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

*(Amd. 02-19-08)*

D. Off-Street Parking Requirements: The application shall indicate the location of all off-street parking and internal drive areas in accordance with Article XII, Off-Street Parking provisions. If the applicant proposes to vary the off-street parking provisions of this ordinance for the use requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.  
(Amd. 02-19-08)

E. Miscellaneous Provisions: The application may also set forth other conditions and performance criteria, such as days and hours of operation, numbers of employees, exterior lighting, and noise, odor and smoke emission controls or other environmental conditions, which might be proposed to make the use of the property compatible with surrounding areas and uses allowed therein.  
(Amd. 04-18-11)

F. Site Plan Requirement: The application shall include a site plan drawn to the specifications of Section 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the County Subdivision Ordinance, the site plan shall be of sufficient detail to allow the Planning and Inspections Staff, the Planning Board, and the Board of Commissioners to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings to be placed on the site, the proposed number of stories, and the location and number of off-street parking and loading spaces. The site plan shall show proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences shall be included on the site plan.  
(Amd. 02-19-08)

#### **SECTION 504. ACTION BY THE PLANNING BOARD.**

The Planning Board may hold a public meeting during which the applicant may voluntarily make modifications to the request. The Planning Board shall review the request for a Conditional Zoning district rezoning and make a recommendation to the Board of Commissioners. When making this recommendation, the Planning Board shall issue a statement addressing the reasonableness of the proposed rezoning, in addition to addressing the request's consistency with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable.  
(Amd. 11-20-06; Amd. 04-18-11; Amd. 02-01-21)

#### **SECTION 505. ACTION BY THE BOARD OF COMMISSIONERS.**

The Board of Commissioners shall hold a legislative hearing to consider the Conditional Zoning district rezoning and shall review the application, recommendations from the Planning Board, suggested conditions, and other information presented at the legislative hearing. The Board of Commissioners shall adopt a statement analyzing the reasonableness of the proposed rezoning along with addressing the consistency of the request with any applicable officially adopted comprehensive plan for the area in which the subject property is located and this statement shall be made a part of the record.

In approving the application, the Board of Commissioners, with mutual agreement of the property owner(s) recorded in writing, may attach such reasonable requirements or conditions in addition to those specified in the Planning Board's recommendation. The conditions may include, but shall not be limited to:

- A. The location of the proposed use on the property;
- B. The number and location of structures;

C. The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;

D. The location and extent of buffer areas and other special purpose areas on the property;

E. The height of any structure;

F. The phasing of development;

G. Other restrictions on the use of the property that adhere to the purposes of this ordinance and maintain the public health, safety and welfare; and

H. Such other matters as the applicant shall propose.

The record shall reflect that the property owner(s) voluntarily agree to all conditions proposed.

*(Amd. 11-20-06; Amd. 04-18-11; Amd. 02-01-21)*

#### **SECTION 506. MODIFICATION TO APPROVED CONDITIONAL ZONING DISTRICTS.**

All modifications, including changes in use and/or increase in density, to approved Conditional Zoning districts, other than those listed below, shall be reviewed in the same manner as a new project.

The following minor modifications to the [approval for the] Conditional Zoning district may be approved by the Planning and Inspections Staff without approval by the Board of Commissioners, provided no variance is required, the use does not change, the intent and layout of the approved plan is generally followed, density is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:

A. Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;

B. Minor changes in parking lot or traffic lane dimensions;

C. Minor dimensional changes to individual lots;

D. Minor site modifications due to necessary engineering requirements;

E. Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan; and

F. Other similar insignificant changes.

In reviewing such changes, the Planning and Inspections Staff may require that the modification be handled in the same manner as a new application.

*(Amd. 04-18-11)*

#### **SECTION 507. TIME LIMIT.**

Once the Conditional Zoning district rezoning is approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved application and conditions. Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two years from the date of approval, the Planning Board may examine progress made to determine if active efforts are proceeding. If the Planning Board determines that

active efforts to develop are not proceeding, it may institute proceedings to rezone the property to its previous zoning classification.

*(Amd. 04-18-11)*

#### **SECTION 508. FAILURE TO COMPLY.**

If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, or if the applicant should fail to accept any condition, the authorization of such Conditional Zoning district shall be null and void and of no effect, and the Planning and Inspections Director shall initiate a rezoning to revert the zoning of the property to its previous zoning classification.

Compliance with all conditions of a Conditional Zoning district is an essential element of the Conditional Zoning district's continued validity and effectiveness. If the Director determines that a developer has failed to comply with a condition of an approved Conditional Zoning district, the Director shall so notify the property owner(s) or the property owner(s)' successor in interest in writing and shall place the matter on the Board of Commissioners' agenda, after consideration by the Planning Board and upon issuance of its recommendation, for the Commissioners' hearing and decision whether or not to revoke the approval of the Conditional Zoning district and revert the zoning of the property to its previous zoning district. Such hearing shall be on reasonable written notice to the property owner(s) or the property owner(s)' successor in interest. The decision of the Board of Commissioners shall be a final decision and a decision to revoke the Conditional Zoning district may be appealed to the Superior Court of Cumberland County within 30 days after the property owner(s) or the property owner(s)' successor in interest have been served with written notice of the Board of Commissioners' decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Commissioners' approved minutes for its meeting at which such decision is made, may constitute written notice and service of the Board of Commissioners' decision hereunder.

*(Amd. 02-19-08; 04-18-11)*

#### **SECTION 509. VALIDATION OF EXISTING CONDITIONAL USE OVERLAYS AND CONDITIONAL USE DISTRICTS AND PERMITS.**

Nothing in this ordinance shall be interpreted to affect or impair any rights accrued pursuant to any Conditional Use Overlay District and Permit, under the County Zoning Ordinance of July 3, 1972, and subsequent amendments, prior to the effective date of this ordinance. In addition, nothing in this ordinance shall be interpreted to affect or impair any rights accrued pursuant to a Conditional Use District and Permit approved prior to April 18, 2011. All valid and legally approved Conditional Use Overlay Districts or Conditional Use Districts and the Permits shall continue to be valid provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with and that the use does not cease for a period of one year. Failure to comply with the conditions of the Permit for the Conditional Use Overlays or a Conditional Use District will subject the property owner and/or developer to possible revocation and reversion pursuant to Section 508 above.

*(Amd. 04-18-11)*

### **ARTICLE VI MIXED USE DEVELOPMENT – CONDITIONAL ZONING DISTRICT**

#### **SECTION 601. GENERAL.**

This zoning district incorporates the provisions of Article V, Conditional Zoning Districts, in its entirety. In addition, the restrictions and requirements set forth below shall be considered minimum standards and must be adhered to or exceeded.

*(Amd. 04-18-11)*

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>



**SECTION 602. MINIMUM CONDITIONS FOR APPLICATION.**

The following are the minimum conditions that must be met prior to submission of an application for this district:

- A. The subject property must be served by public or community water and sewer;
- B. The subject property must have permitted access to a public paved street that can support the development; and
- C. The subject property must be at least ten acres.

**SECTION 603. USES ALLOWED.**

The intent of this district is to allow for flexibility of development; however, unless a use not listed below is specifically requested by the applicant and receives a favorable recommendation from the Planning Board and approved by the County Commissioners, all uses within the district shall be limited to the following:

- A. Any residential use except manufactured homes and manufactured home parks;
- B. Commercial and office uses in the C1(P) Planned Local Business District and O&I(P) Planned Office and Institutional District; and
- C. Allowed uses from the C2(P) Planned Service and Retail and the C(P) Planned Commercial districts are as follows:
  - 1. Alcoholic Beverage Control Sales;
  - 2. Bed & Breakfast (except those regulated by Section 924);
  - 3. Food Production (with on premises retail sales of product);
  - 4. Home Furnishings and Appliance Sales;
  - 5. Janitorial Service;
  - 6. Locksmith, Gunsmith;
  - 7. Mini-warehousing with no outside storage of vehicles (if constructed in accordance with Section 914);
  - 8. Motor Vehicle Washing;
  - 9. Office Supplies and Equipment Sales and Service, Mailbox Service;
  - 10. Pet Sales (excluding kennel operations, outside runs, and outside storage of animals);
  - 11. Recreation or Amusement, Indoor (conducted inside a building for profit, and not otherwise listed herein) and recreation/amusement outdoor (conducted outside building for profit, not otherwise listed or regulated);
  - 12. Recreation or Amusement, Public/Private (not operated as a business for profit);

13. Retailing or Servicing with operations conducted and merchandise stored entirely within a building (Note: The remainder of this use, as listed in Section 403, “and not otherwise listed herein” is not included in this Section.); and

14. Veterinarian.

Any combination of the above permitted uses shall not exceed 50% of the total land area within the district for non-residential development.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)*

#### **SECTION 604. DEVELOPMENT PERFORMANCE STANDARDS.**

A. Calculation of Area: Prior to submission for approval, the developer shall ensure the following calculations for land uses are provided for and clearly shown on the site plan:

1. Fifteen percent of the land area for the entire development shall be subtracted out of the overall acreage prior to any other calculations and shall be reserved as open space; and

2. After deduction of open space is completed, all acreage devoted to vertical mixed use, provided only residential use occurs above the first floor, shall be subtracted out of the remainder; then

3. The resultant acreage shall be the basis for calculation of the percentages for the fifty percent commercial and residential calculations.

#### **B. Open Space Provisions.**

1. Fifteen percent of the land area is to remain undeveloped (in its natural state), unless developed recreational facilities are specifically requested in the application and shown on the site plan and approved by the County Commissioners upon their consideration of the recommendation from the Planning Board;

2. The open space portion of the tract must be in one contiguous piece or if not, receive a favorable recommendation from the Planning Board and approved by the Board of Commissioners; and

3. The open space shall be secured by a recorded conservation easement and maintained as common area by an owners’ association in the same manner as prescribed in the County Subdivision Ordinance for common area in Zero Lot Line developments, or owned by a public or non-profit organization (i.e., governmental entity, land trust, conservancy, etc.) provided that this manner of ownership is approved by the County Commissioners after their consideration of the Planning Board’s recommendation. It is permissible for the owners’ association to initially be incorporated as an umbrella organization with declaration of covenants addressing the overall development and then subsidiary associations created for individual sub-developments within the overall development, each subject to additional specific declaration of covenants for the sub-development.

*(Amd. 01-19-10)*

#### **C. Development Standards.**

1. A site plan including all information required for detailed site plans enumerated in Section 1402 shall be submitted with the application. In addition, the site plan shall include the street layout, all proposed means for pedestrian and vehicle movement, including any alleys, public/private access to open space, etc. The site plan must be detailed and strictly adhered to.

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2. Half of the proposed residential development, excluding vertical mixed use, shall have been issued a Certificate of Occupancy or a guarantee has been posted in the form of a bond or irrevocable letter of credit and approved by the County Attorney, with the estimated cost of construction being approved by the County Engineer, in the same manner as required by the County Subdivision Ordinance for "Guarantees of Improvements", prior to the completion of the approved non-residential portion of the plan. In the event, the developer fails to complete the residential portion of the development, the funds from the guarantee shall be used toward recouping any legal cost associated with enforcement of the conditions of approval and toward construction of any improvement within the development reasonably necessary to provide for the safety, health, and welfare of the public.

*(Amd. 01-19-10; 04-18-11)*

3. All development within the district must meet any height restrictions imposed by airports and the Federal Aviation Administration.

4. The district dimensional requirements, including minimum lot size, setbacks, and density restrictions, of Article XI shall not apply within the district; however, all periphery setbacks shall be that of any adjoining zoning district.

5. Sidewalks shall be provided in accordance with the standards of the County Subdivision Ordinance.

6. The site plan shall indicate the minimum number, size, and location of off-street parking spaces for all non-residential development and comply with the standards of Article XII, Off-Street Parking and Loading.

*(Amd. 01-19-10)*

7. All utilities except for high voltage electric lines (25kv or greater) shall be placed underground within the district.

8. Streets and drives will comply with North Carolina Department of Transportation standards and will be capable of carrying the projected traffic volumes.

9. All signage within the district shall comply with the sign regulations as authorized in Section 1306.A.

10. Buffering shall be provided in accordance with the standards of Section 1102.G.

11. Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within the County Subdivision Ordinance.

*(Amd. 01-19-10)*

D. Other Applicable Regulations. In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

1. All County Subdivision Ordinance and Watershed Protection Ordinance requirements shall be complied with, where applicable;

2. Compliance with the Highway Plan;

3. The plans must be in harmony with the most current Comprehensive Land Use Plan, any officially adopted area plan and current adopted policies; and

4. All other applicable Federal, State, and local regulations are complied with.

*(Amd. 01-19-10)*

## **ARTICLE VII**

### **PLANNED NEIGHBORHOOD DEVELOPMENT – CONDITIONAL ZONING DISTRICT**

#### **SECTION 701. PURPOSE.**

This district encourages the development of residential land in such a manner as to provide a more desirable living environment characterized by a variety of housing types in order to best meet the demand of all people, allow new methods by which land and facility costs can be reduced on a per unit basis so that more people can afford better living conditions, and may include limited commercial facilities to meet the needs of surrounding residents.

#### **SECTION 702. GENERAL.**

The developer is strongly encouraged to submit a preliminary sketch of the proposed Planned Neighborhood Development (PND) plan and to work closely with the Planning and Inspections Staff prior to submission of any application and site plan for rezoning to this Conditional Zoning district. This zoning district incorporates the provisions of Article V, Conditional Zoning districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for this Conditional Zoning district and must be satisfied or surpassed.

*(Amd. 04-18-11)*

#### **SECTION 703. MINIMUM CONDITIONS FOR APPLICATION.**

The following are the minimum conditions that must be met prior to submission of an application for this district:

- A. The subject property must be served by public or community water and sewer;
- B. The subject property must have permitted access to a public paved street that can support the development; and
- C. The subject property must contain at least 50 contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one un-separated continuity of land; or is separated by street rights-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the PND plan.

#### **SECTION 704. USES ALLOWED.**

The following uses are permitted subject to restrictions placed on the PND by the Planning Board and/or Board of Commissioners, and as agreed to by the record property owner(s):  
*(Amd. 02-19-08)*

- A. Any residential use permitted in the R7.5 zoning district, including a variety of single-family, multifamily, patio homes, townhouses, condominiums and zero lot line developments;
- B. Commercial and office uses in the C1(P) Planned Local Business District and O&I(P) Planned Office and Institutional District; and
- C. Allowed uses from the C2(P) Planned Service and Retail and the C(P) Planned Commercial districts are as follows:  
*(Amd. 01-19-10)*

- 1. Home Furnishings and Appliance Sales;

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2. Hotel/Motel (except as regulated by Section 924);
3. Janitorial Service;
4. Office Supplies and Equipment Sales and Service;
5. Motor Vehicle Washing;
6. Recreation/Amusement, Indoor conducted inside a building for profit, not otherwise listed & not regulated by Section 924);
7. Recreation or Amusement Public/Private (not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., and not regulated by Section 924);
8. Retailing or Servicing (with operations conducted and merchandise stored entirely within a building and not otherwise listed herein);
9. Veterinarian.

#### **SECTION 705. DEVELOPMENT STANDARDS.**

##### **A. Land Use Proportions.**

1. Non-Residential Uses: A maximum of five percent of the gross land area of the development may be devoted to such convenience commercial uses as listed above, with no one tract to exceed ten acres.

If more than one tract of land is proposed for commercial uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.

2. Residential Uses: The maximum density of residential units per acre of the gross land area shall be six except as provided below. In determining the maximum number of units, the acreage denoted to commercial uses shall not be included.

*(Amd. 02-19-08)*

The commercial land area may be proportioned if the developer wishes, i.e., three and three quarters percent commercial and six and one-half units per acre of gross land area; two and one-half percent commercial and seven units per acre of gross land area; one and one-quarter percent commercial and seven and one-half units per acre of gross land area. In lieu of all commercial development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

B. Open Space and Recreational Facilities. Where the Fayetteville-Cumberland Parks and Recreation Master Plan or any other plan of the County or municipal government adopted after the effective date of this amendment identifies land in the proposed PND as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to a PND shall either be placed in an owners' association, under the same provision and conditions as provided for in the County Subdivision Ordinance, or be dedicated to the County of Cumberland for use as parks, recreation areas, and open space. At least 50 percent of the area offered for dedication must be suitable for recreational use. The Board of Commissioners,' after their consideration of the Planning Board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND.

*(Adm. 02-19-08)*

The entire dedication may be made when the preliminary plat is presented to the Board of Commissioners; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the PND plan.

No parcel of land dedicated shall be less than one contiguous acre which shape is acceptable to the Board of Commissioners and all such areas shall be physically a part of the PND. Detached single-family dwelling units are exempt from any further open space dedication requirements of the Subdivision Ordinance. Residential group developments must provide the recreation areas required by the Subdivision Ordinance.

When according to adopted County or municipal plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners’ association, under the same provision and conditions as provided for in the County Subdivision Ordinance; the land shall be dedicated to the County for use as parks and recreation and open space; or a fee shall be paid to the County of Cumberland for the acquisition of land for recreation purposes in accordance with the provisions of N.C. GEN. STAT. §160D-804. The Board of Commissioners shall decide which option is appropriate. If a fee is chosen, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the PND. The entire dedication of land or fee may be made at the time the preliminary plat is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the PND. A fee in lieu does not entitle the PND to additional residential units or commercial acreage.

(Amd. 02-01-21)

C. Buffer Requirement. Buffers meeting the standards of Section 1102.G shall be provided. The Board of Commissioners’ upon recommendation from the Planning Board may require additional buffering, when the proposed nonresidential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the non-residential character of the uses.

D. Off-Street Parking and Loading Spaces. Off-street parking and loading spaces shall be provided as required for the specific uses as listed in Article XII.

E. Sign Regulations. All signage shall comply with the standards enumerated in Section 1306 with non-residential uses not exceeding the standards for the C1(P) zoning district.

F. Dimensional Provisions. Residential uses shall meet or exceed the minimum standards for setbacks of the R7.5 Residential District along all public streets and on the periphery of the development. All non-residential uses shall observe the yard regulations for the C1(P) zoning district along the public streets and on the periphery of the PND.

G. Schedule of Development. Development of the commercial portion of a PND shall not commence until the following schedule of the number of residential units approved for the PND have been developed:

<i>Size of PND</i>	<i>Units Approved</i>
50 to 100 acres	50%
Over 100 acres, up to 150 acres	40%
Over 150 acres, up to 200 acres	30%
Over 200 acres	25%

**SECTION 706. CONTENTS OF APPLICATION.**

In addition to the requirements of Section 503, the application shall contain the following items:

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A. General site plan indicating the proposed land use areas including residential, commercial, open space and recreational, and other public facility areas to be developed for the entire site;

B. The proposed density pattern for the entire area, and the housing type to be used in each area, i.e., multi-family, single-family attached, single-family detached;

C. The primary and collector streets, including thoroughfares on the adopted Highway Plan and any other adopted plans of the County and/or Planning Board;

D. The proposed uses for the commercial area(s);

E. Floodplain areas where applicable;

F. Written statement or certification from appropriate public authorities that the PND area will be served with public or community water and sewer systems;

G. Legal description of boundary of PND plan area and each proposed housing area in the PND plan;

H. The names and addresses of adjoining property owners.

#### **SECTION 707. SITE PLAN AND SUBDIVISION APPROVAL.**

After approval of the PND from the Board of Commissioners and prior to issuance of any zoning or building permit, the property owner(s) shall submit for preliminary and final approval of each segment of the plan, meeting conditions of the approved permit, in the same manner as for site plan and subdivision approvals in accordance with this ordinance and the County Subdivision Ordinance.

*(Amd. 04-18-11)*

#### **SECTION 708. AMENDMENTS.**

Amendments to an approved PND plan shall be processed in the same manner as the original application. In considering the approval of an amendment to a condition, consideration shall be given to the effect the amendment may have on any other portion of the PND.

#### **SECTION 709. ABANDONMENT OF PND PLAN.**

In the event the developer abandons the PND plan as approved, all undeveloped or unplatted land shall be used further only under the regulations of the R7.5 Residential district unless a subsequent application is approved for the remaining land. Such subsequent plans must be based, however, on the overall residential density planned on the original tracts of land and may not include additional commercial land except if a portion was not developed under the original plan.

#### **SECTION 710. VALIDATION OF EXISTING PND PLANS.**

PND plans approved prior to the effective date of this ordinance shall not be affected by this amendment; however, any amendment to any existing PND after the effective date of this ordinance shall be processed under the amended approval process outlined in this article.

## **ARTICLE VIII DENSITY DEVELOPMENT- CONDITIONAL ZONING DISTRICT**

### **SECTION 801. PURPOSE.**

Density Development-Conditional Zoning districts are intended to promote the preservation of open space and the rural areas within the County while at the same time providing for the residential development of land.

*(Amd. 04-18-11)*

### **SECTION 802. GENERAL.**

The property owner(s) are strongly encouraged to submit a preliminary sketch of the proposed development and to work closely with the Planning and Inspections Staff prior to submission of any application and site plan for rezoning to this Conditional Zoning district. This zoning district incorporates the provisions of Article V, Conditional Zoning Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for this Conditional Zoning district and must be satisfied or surpassed.

*(Amd. 04-18-11)*

### **SECTION 803. DEVELOPMENT STANDARDS.**

A. Development Area. All building sites will be restricted to 60 percent of the total tract with the remaining 40 percent designated as open space. Twenty percent of the land designated as open space must not include wetlands, water bodies, or located within the floodway.

*(Amd. 02-19-08)*

B. Density. All developments approved under this section may provide for equal to or less than the density of the requested parallel zoning district as allowed for in Section 1104.

*(Amd. 02-19-08)*

C. Building Sites. The building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential structure(s) and shall be sufficient in size to accommodate the structure(s) intended to be constructed thereon; any accessory structures; and provisions for utilities, whether public or private, including sufficient land area for wells, septic tanks and drain fields, if necessary.

D. Yard Regulations. The building sites shall be exempt from the yard regulations in Section 1104, provided that all sites served by a public street shall provide for the minimum front yard setback and a minimum of ten-foot separation between structures shall be provided for all structures within the development. All periphery setbacks must be met along the perimeter of the development. Setbacks shall not include any of the open space and/or buffer areas as required by sub-sections E and F below.

E. Perimeter Buffer. The entire development shall be buffered with a minimum of six-foot in height and 20-foot in width vegetative strip of land, as described below, around the periphery and 40-foot in width along the frontage right-of-way. The buffer shall consist of natural topography and/or plantings, as necessary to preserve the rural appearance of the area surrounding the development and the right(s)-of-way fronting the development, provided that:

1. The application and site plan shall clearly reflect the buffer area and the property owner(s)' intentions regarding the buffer, including the location of and type of plant material proposed and assurance that any proposed plantings will be three feet in height at time of planting, to reach a height of six feet within three years, with sufficient plantings along any right-of-way to accomplish complete opacity within three years from time of planting. A berm or combination berm and plantings may also be used provided an initial height of three feet is achieved with a total height of six feet within three years;

2. Unless expressly mutually agreed upon in advance and approved by the Board of Commissioners after consideration of the recommendation from the Planning Board, the property owner(s) shall not develop or alter the natural topography of the land within the buffer area. There shall be no cutting, removal of trees, or the disturbance of other natural features except as stated herein:

a. As incidental to boundary marking, fencing, signage, installation of utilities, construction and maintenance of nature trails and public access allowed hereunder;

b. Selective cutting and prescribed burning or clearing of vegetation and the application of usual and customary pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; or

c. The property owner(s) chose to use a berm or combination berm and plantings.

3. The land area containing the perimeter buffer shall be permitted to count toward the 40 percent open space requirement but shall not be considered as any portion of any required yard area;

4. The perimeter buffer may be reduced in width if adjacent to an existing and properly approved Density Development provided the combined buffers satisfy the intent of this ordinance and is found to be sufficient by the Planning Board and the County Commissioners;

5. The final approval of the sufficiency of the perimeter buffer shall rest with the Board of Commissioners after their consideration of the recommendation from the Planning Board; and

6. The perimeter buffer shall be in place prior to submission for final plat approval of any lot within the development or the property owner may elect to post a guarantee, such as a letter of credit, performance bond or other surety in the same manner as allowed for in the County Subdivision Ordinance equal to 1.25 times the tax assessed raw land value of the area within the development plus 100 percent of the amount of any improvements proposed to satisfy the buffer requirement.

*(Amd. 02-19-08; Amd. 04-18-11)*

#### F. Open Space.

1. The property owner shall not develop or alter the natural topography of the designated open space unless improvements are clearly indicated on the application and site plan and approved by the Board of Commissioners after their consideration of a recommendation from the Planning Board.

2. The open space land area shall adjoin the largest practical number of lots within the development and may, if proposed to be maintained by the property owner or by an owners' association, restrict access to only the residents of the development.

3. The open space land area shall be interconnected wherever possible to provide for a continuous network with such lands in adjacent developments.

4. All open space shall be permanently restricted from future subdivision and other forms of development through a perpetual open space or conservation easement running with and appurtenant to title of lots in the development, and recorded in the Cumberland County Registry, except where otherwise provided herein. The location of the easement shall be shown on the recorded plat and clearly depicted on the site plan.

The conservation easement shall expressly provide that Cumberland County shall be an intended third-party beneficiary and shall have standing to both enforce any restrictions and to recover the costs of remedying any violation from any party(s) breaching the easement.

*(Amd. 02-19-08; Amd. 04-18-11)*

5. Open space shall be preserved and used only for natural scenic, passive recreational, agricultural, pasture and/or meadow, forestry, wetlands, or horticultural uses.

6. A property owners' association shall be created to maintain the open space and any common areas in the development, unless an alternative method of maintenance is approved by the Board of Commissioners upon recommendation of the Planning Board (such as, for instance, if the open space is conveyed by a perpetual conservation easement to a recognized nonprofit conservancy organization or other non-profit organization established for ecological and/or environmental preservation). Membership in the property owners' association shall be mandatory for all property owners in the development. The property owners' association shall have the authority and duty to levy assessments, which shall be liens upon and run with the title to every lot within the development, to provide for maintenance of the open space and any other common areas in the development. The documents creating the property owners' association shall provide that they may not be amended except upon a vote of the owners representing at least three-quarters of the lots in the development. The County Attorney shall approve the property owner's association documents, to include any articles of incorporation, bylaws, and/or declaration of restrictive covenants. The property owners' association documents may provide or include mechanisms to allow the developer and/or seller of the property actively to use the open space for pasture or agricultural uses.

*(Amd. 02-19-08)*

7. The property owner(s)' intentions regarding the open space, e.g., whether to remain in its natural state, provide developed recreation facilities, timber harvesting, farmed, etc., shall be clearly reflected in the application and on the site plan upon formal submission of the application.

*(Amd. 04-18-11)*

G. Parks, Recreation, and Open Space Exemption. Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within the County Subdivision Ordinance.

H. Subdivision Ordinance Compliance. All pertinent portions of the County Subdivision Ordinance shall be complied with.

I. Other Applicable Regulations. In addition to the above requirements and all conditions placed on the district, the property owner shall ensure the following:

1. All watershed protection requirements shall be complied with, where applicable;

2. Compliance with the Highway Plan;

3. The plans must be in harmony with the most current Comprehensive Land Use Plan, officially adopted area plans and current adopted policies;

4. All other applicable Federal, State, and local regulations are complied with.

*(Amd. 01-19-10; Amd. 04-18-11)*

## **ARTICLE VIII.I OVERLAY DISTRICTS**

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

**SECTION 8.101. AIRPORT OVERLAY DISTRICT (AOD).**

A. Applicability. The provision of this article shall apply to all new development within the Airport Overlay District (AOD) and any addition, remodeling, relocation or construction requiring a zoning or building permit. These provisions shall also apply to all trees located within the boundary of the AOD.

B. Airport Overlay District Map. The boundary of the AOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made a part of the provisions of this article as if the map itself were contained herein - see Appendix 1 for informational sketch map.  
(Amd. 01-19-10)

C. Land Uses. The land uses allowed under the terms of this ordinance shall continue to be allowed in the same manner as established by this ordinance; however, upon the consideration of any petition for the rezoning of property within the AOD, the Planning & Inspections Staff, Joint Planning Board, and the Board of Commissioners shall give considerable weight to the following factors when formulating their recommendation/ruling:

1. All allowed uses within the district being requested should be compatible with the continued operation of the airport and consistent with the *2023 Off-Airport Land Use Plan*, or subsequent amendments to said plan, upon the subsequent amendments have been officially adopted by the Board of Commissioners;

2. Any petition for rezoning of properties located within the *Airport Impact Zones* – see Appendix for map of *Airport Impact Zones* – should not be favorably considered except where such request is consistent with the following recommended land uses and densities:  
(Amd. 01-19-10)

a. *Airport Impact Zones 1, 2 and 5* are zones where the recommended land uses should prohibit residential development and allow low impact (less than five people per acre) non-residential development.

b. *Airport Impact Zones 3 and 4* should allow zero to low density residential development or non-residential development ranging from 25 to 40 people per acre.

c. *Airport Impact Zone 6* should generally allow low density residential development and non-residential development accommodating fewer than 100 people per acre.

3. Any district that would allow a use incompatible with the airport operations should not be favorably considered without a favorable recommendation from the Fayetteville Regional Airport Director, this includes uses that would cause the following:

a. A high concentration of residential dwelling units, specifically at a density of more than two dwelling units per net acre;

b. A use that would cause a high concentration of people, such as: indoor recreation, schools, medical facilities and the like;

c. Release into the air any substance that would impair aircraft visibility or otherwise interfere with its operation;

d. Produce light emissions, either direct or reflective, that would interfere with pilot vision, result in glare in the eyes of pilots using the airport or diminish the ability of pilots to distinguish between airport lights and other lights;

e. Create electrical interference with navigational signals or radio communication between the airport and aircraft;

f. Construct tall smokestacks or television, telecommunication and/or radio transmission towers; or

g. Attract birds or water fowl in such numbers as would create a hazard and interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport; such as storage of garbage, etc.

D. Height Limitations. Structures shall not be erected, altered, or maintained, and no tree shall be allowed to grow in to a height in excess of the applicable height limits established and regulated by the Federal Aviation Administration (FAA), and prior to application for any building/zoning permit the developer shall provide to the Coordinator a copy of the FAA's acknowledgement of receipt of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, as required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77). In the event, the FAA's acknowledgement indicates the proposed development would provide an obstruction and/or a hazard to air navigation, the developer must provide either written consent from the Airport Director as related to the proposed development or seek a variance under the provisions of this chapter. Notwithstanding the provisions of this section, height limitations shall not apply to any structure or any vegetation that is 35 feet or less in height, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits of the FAA. The FAA height limitations generally include the following:

1. Approach Zone. Height limitations for Approach Zones shall be determined by measuring outward and upward at a 50:1 slope for Runway 4/22 and a slope of 50:1 for Runway 10/28. This measurement is commenced from the end of and at the same elevation as the end of the respective runway centerline to the prescribed horizontal distance.

2. Transitional Zone. Height limitations for the Transitional Zone shall be determined by measuring outward and upward at a 7:1 slope from the sides of and at the same elevation as the Approach Surface and extending to the point of intersection with a horizontal surface or conical surface.

3. Conical Zone. Height limitations in the Conical Zone are established by measuring from the periphery of the horizontal zone and at 150 feet above elevation outward and upward at a 20:1 slope to a height of 350 feet above airport elevation.

4. Horizontal Zone. Height limitations in the Horizontal Zone are established at 150 feet above airport elevation (190 MSL).

E. Notice and Disclosure of Noise Impact. Any site plan, preliminary or final plat for property located within the AOD that is submitted for review and approval under the terms of this ordinance and/or the County Subdivision Ordinance shall contain the following notice:

*"Property shown on this plan/plat is within the Cumberland County Airport Overlay District and all or a portion of the property described hereon is within an area that is subject to an average noise level near to or exceeding 65 dnl."*



F. Lighting/Marking.

1. Any allowed use, subdivision, or other development located within the AOD shall not have outdoor lighting or illumination arranged and/or operated in such a manner as to be misleading or pose a danger to aircraft operations and in no case shall lighting be in contradiction to the provisions of Section 1102.M of this ordinance.

2. The owner of any existing structure or vegetation that is currently penetrating any referenced surface within the AOD shall permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration or by the Director of the Fayetteville Regional Airport to indicate to the operators of aircraft in the vicinity of the airport the presence of an airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the Fayetteville Regional Airport Director.

G. Avigation Easement. Property owners and residents of properties in which is encumbered by the avigation easement, recorded in Deed Book 520, page 186, at the Cumberland County Register of Deeds, shall not restrict the access of the Fayetteville Regional Airport Director or the director's designee to enter said properties for purposes of carrying out the provisions of the easement see Appendix 1 for sketch map of easement location.

(Amd. 01-19-10)

H. Nonconformities. The regulations prescribed in this section shall not be construed to require the removal, lowering or other change or alteration of any existing structure that is found to be nonconforming to the provisions of this section as of the effective date of this amendment, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alternation of which valid permits have been issued prior to the effective date of this amendment and is diligently exercised. The provisions of this sub-section do not apply to any tree, which may be trimmed in the event the tree is found to be encroaching into the airspace zones established in sub-section "D" above.

Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 50% percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations within the AOD.

I. Conflicting Regulations. Where the provisions of this section conflict with the remaining provisions of this ordinance and any other provision of the County Code or other Federal, State or local regulation, the more restrictive regulation shall apply.

(Amd. 09-16-08)

**SECTION 8.102. COLISEUM-TOURISM OVERLAY DISTRICT (CTOD).**

A. Applicability. The provisions of this section shall apply to the proposed development and any re-development of properties within the Coliseum-Tourism Overlay District, including any addition, remodeling, relocation or construction requiring a zoning or building permit. In the event there is a conflict between the requirements of provisions of this ordinance and this overlay district, the overlay provisions shall prevail.

B. Coliseum-Tourism Overlay District Map. The boundary of the CTOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made part of the provisions of this section as if the map itself were contained herein- see Appendix 3 for informational sketch maps.

C. Land Uses.

1. *Principal Uses.* All new uses of property and any change in an existing use shall first require approval of a Conditional Zoning application subject to the provisions of Article V prior to commencement of the proposed or change in use. To ensure the primary objective of the district is attained and not including officially sanctioned government events, land uses within the district are limited to the following:

- a. Alcoholic Beverage Control Sales;
- b. Apparel and Accessory Sales;
- c. Assemblies, Community, Assembly Hall, Armory, Stadium, Coliseum, Community Center, Fairgrounds, and similar uses;
- d. Banks, Savings and Loan Company and Other Financial Activities;
- e. Billboards in compliance with Sec 1307 except that any proposed billboard located within the CTOD shall be no closer than 1,000 feet to an existing billboard regardless where the existing billboard is located;
- f. Books & Printed Matter Sales, not including those regulated by Section 924;
- g. Convenience Retail with Gasoline Sales, including drive through motor vehicle washing
- h. Dry Cleaning/Laundry, self-service;
- i. Farmers' Market;
- j. Flower Shop;
- k. Hotel, except as regulated by Section 924;
- l. Motor Vehicle Rentals;
- m. Office Use – with no on-premises stock or goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material;
- n. Public/Community Utility Stations/Sub-stations;
- o. Recreation/Amusement Indoor (Section 920) conducted inside building for profit, not otherwise listed and not regulated by Section 924;
- p. Recreation or Amusement Public/Private (Section 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, and similar uses, and not regulated by Section 924;
- q. Restaurant, operated as commercial enterprise not including those regulated by Section 924;
- r. Swimming Pools, incidental to a principal use (Section 1002.C);
- s. Veterinarian.

2. *Accessory, Ancillary and Incidental Uses.* In conjunction with the above allowed principal uses as listed in sub-section 1.

a. Permanent outdoor sales and displays shall be permitted only within a physically defined area that is delineated on the site plan as approved by the Board of Commissioners, and all physical improvements defining the sales/display area shall be constructed of materials comparable to the primary building(s) on site – this provision shall not apply to a farmers’ market, see Section 907.1 for specific regulations pertaining to farmers’ markets;

b. Outdoor storage shall be completely screened from view from any street and all adjacent properties in accordance with Section 1102.G within this district;

c. Temporary or promotional events conducted outside must have the prior approval of the Planning & Inspections Director, or the director’s designee;

3. *Nonconformities.* To ensure the primary objective of the district is attained, with the exception of legal residences conforming prior to the adoption of the amendment [April 22, 2014], strict implementation of the below provisions regulating nonconformities within the district is paramount. For purposes of this section, permissible repair is defined as those repairs, not replacement, that are limited to routine or ordinary maintenance and which would not result in the extension of the normal life of the structure. Impermissible replacement is defined as maintenance, construction or reconstruction of a nonconforming structure or part thereof or structure housing a nonconforming use within the district that is damaged by fire, storm or other causes including natural deterioration to an extent exceeding 40 percent of the structure’s reproducible value or its bulk (including foundations).

a. All nonconforming uses not carried on within a structure, except those which are specifically allowed as an accessory, ancillary or incidental to an allowed uses subject to the provisions of this section, shall be discontinued within one calendar year from the effective date of this ordinance, regardless whether or not the nonconforming use status applies to structure(s) and premises in combination with the nonconforming outdoor use – any subsequent use of the land and structures placed thereon shall conform to the provisions of this section.

b. A nonconforming use may not be changed or expanded or resumed if the nonconforming use has ceased for a period of 180 calendar days within the district.

c. Any structure that is nonconforming due to noncompliance with dimensional requirements, but which houses an allowed use within the district may continue provided that its nonconformity is not increased, except where specifically approved by the County Board of Commissioners, and provided that prior to any upgrades to any nonconforming structure housing an allowed use beyond permissible repairs, the minimum landscaping and pedestrian improvements are implemented on the site.

d. Owners of properties within the district shall not allow for the impermissible replacement of any nonconforming structure located inside the district unless specifically approved by the County Board of Commissioners.

#### D. Site Design/Site Layout.

1. *Yard Setbacks.* The lot and yard setback provisions of Article XI as applied to the C2(P) district shall apply to properties fronting on Gillespie Street (US HWY 301/I-95 Bus) and Owen Drive (SR 1007), except that for proposed buildings with a height of greater than 25 feet, the front yard setback shall be a minimum distance equaling twice the building height. For developments along all other streets, regardless whether public or private and including new or proposed streets, the yard setbacks shall be as follows:

a. Minimum of 35 feet from each street right-of-way/property line for the front yard setbacks, except that for structures more than 25 feet in height, the front yard setback shall be a minimum distance equaling twice the height of the building;

b. Minimum of 15 feet from a side or rear property line where the adjacent property is also within the district or zoned for non-residential use; and

c. Minimum of 30 feet from a side or rear property line where the adjacent property is zoned residential.

In the event development is proposed for a property without direct frontage on a public or approved private street, the yard setbacks as requested by the developer must afford public safety and be delineated on the site plan. In addition, the plan for ingress/egress must clearly be shown on the site plan, addressed in the application and the requisite easements provided to the Code Enforcement Manager at the time of permit application.

2. *Off-Street Parking, Loading and Drives.* Off-street parking and loading shall be provided as required by Article XII; however, all required parking shall be surfaced with asphalt, concrete or pervious material and shall be maintained in proper repair. Interconnectivity between parcels within the district is mandatory and shall be included on the site plan indicating the location and width of the proposed interconnecting drive areas along with all driveways to the street right-of-way.

3. *Signs.* Signage shall be allowed in the district consistent with the provisions for the C1(P) zoning district, to include all related regulations of Article XIII, except that the maximum height of any freestanding sign shall be 25 feet within the overlay district.

4. *Buffers.* The provisions of Section 1102.G shall apply along the periphery of every developed lot within the district that is also adjacent to a residentially zoned property.

5. *Dumpster and Utility Screening.* All dumpster and utility areas shall be located on concrete pads and screened on a minimum of three sides with a solid fence between the dumpster or utility and complimented with vegetative plantings.

6. *Fencing.* Any fencing proposed must be specifically identified as to type and location on the site plan; if not included on the plan, the permit for said fence shall be denied – this provision includes open fences as well as solid.

7. *Landscaping.* Landscaping shall be provided in accordance with the provisions of Section 1102.N, except that for the streetscape landscaping a minimum of four small ornamental trees per 50 linear feet of street frontage shall be required. Healthy existing large shade trees may be utilized for calculation of landscaping compliance in lieu of the ornamental streetscape trees only if they are in the appropriate area on the subject lot and a minimum of eight-inch caliper. The developer is strongly encouraged to retain as many existing trees of significant stature as possible.

8. *Stormwater Utility Structures.* Any stormwater utility structure proposed within the front yard or within view from the public or private street shall be integrated into the proposed project design and aesthetically pleasing. The burden shall be on the developer to address the stormwater utility structure aesthetic design plans proposed within the application or on the site plan.

9. *Underground Utilities.* All utilities shall be located underground except where specifically prohibited by the utility provider.

10. *Other Regulations.* The developer/property owner shall ensure compliance with all applicable Federal, State and local regulations.  
(Amd. 04-22-14)

## **ARTICLE IX INDIVIDUAL USES**

### **SECTION 901. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES.**

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XIV unless this article specifically requires approval of a Special Use Permit or Conditional Zoning District. Those uses requiring approval as a Special Use Permit (Section 1606) or a Conditional Zoning District (Article V) shall also be subject to these standards and any additional standards or conditions required by the approval.  
(Amd. 11-20-06; 04-18-11)

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

A. All parking and loading areas shall comply with the minimum provisions established in Article XII, Off-Street Parking and Loading;

B. All lighting shall be directed internally and shall comply with Section 1102.M;

C. Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 9.5, Cumberland County Code, Article II, entitled: "Noise" (Noise Ordinance);

D. When any non-residential use is adjacent to residentially zoned properties, a screening buffer shall be provided in accordance with Section 1102.G of this ordinance;  
(Amd. 01-19-10; Amd. 06-18-12)

E. Unless otherwise specified within these individual sections, all signage shall be in compliance with Article XIII, Sign Regulations, for the specific district in which the subject property is located;

F. All new non-residential development shall comply with the landscaping provisions of Section 1102.N; and  
(Amd. 02-19-08)

G. Compliance with all Federal, State, and local regulations, including the County Subdivision Ordinance, is mandatory.

### **SECTION 902. AIRPORT OPERATIONS (MINOR).**

A. Airport size and layout shall conform to current Federal Aviation Administration (FAA) design standards, if applicable.

B. There shall be a minimum of 300 feet between any runway or taxiway to the nearest property used or zoned for residential purposes, except that a residence may be located on the property of a small private airfield.

C. Hangars, storage buildings, terminals, loading docks and parking lots, when located within 100 feet of the property line or street right-of-way and abutting property used or zoned for residential uses, shall be screened with a vegetative buffer.

D. The site plan shall include the location and size of landing strips and the location of landing lights (if applicable).

E. A map of all property within 500 feet of the proposed airfield or airstrip property lines and within 1,500 feet of each end of the runway, including names and addresses of property owners, as given in the tax listings and existing land use for each property shall be submitted as part of the application.

F. A map depicting the location, type and height of any structure, including towers, over 200 feet in height and within a five-mile radius shall be submitted as part of the application.

G. In order to grant approval of the use, additional conditions that the Planning Board or Staff deem appropriate and reasonably necessary for the protection and safety of nearby property may be required.

### **SECTION 903. BED AND BREAKFAST.**

A. The use must be located in a structure originally constructed for use as a residence.

B. The operation may consist of a maximum of nine guestrooms.

C. Each room must have access to a hall or exterior door.

D. One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.

E. There shall be no less than one bathroom, consisting of a bath or shower and lavatory, for each two guestrooms.

F. Guestrooms shall not be equipped with cooking facilities.

G. There shall be no other bed and breakfast within 400 feet of the property.

H. Parking shall be provided at the rate of one space for each room to be rented and one space for each employee/owner. No off-street parking shall be permitted any closer to the right-of-way than the principal structure.

I. A fire protection plan approved by the County Fire Marshal must be submitted at the time of permit application.

J. The required site plan shall depict neighboring properties and buildings within 200 feet of all property lines.

K. *Reserved for future use.*

L. Meals served on the premises to guests shall be limited to breakfast and no meals shall be served to the general public.

M. All State requirements shall be complied with and all required State permits are to be acquired and maintained.

*(Amd. 11-20-06; Amd. 01-19-10)*



**SECTION 904. BORROW SOURCE OPERATIONS.**

A. The applicant shall provide a list of all property owners within 1,000 feet of the exterior boundaries of the lot of record to the site of the borrow source operation. This information shall be provided from the current Tax Administrator's property tax listing of property according to the tax administration office.

B. Applicants shall identify the size and location of operating, or permitted, borrow source operations within a 1 ½-mile radius as measured from the centroid of the parcel within which the borrow pit is located. The scope and density of these operations within a 1 ½-mile radius shall be considered in making the final determination.

C. While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation.

D. Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion, shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public.

E. Hours of operation shall be sunrise to sunset, Monday through Saturday, unless otherwise stated in the permit.

F. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, documentation from the North Carolina Department of Transportation that the public thoroughfare to which the borrow source operation has access, has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable.

G. The applicant shall provide to the Planning and Inspections Staff, at the time the application is submitted, proof of legal access, for the County Attorney's approval, from the borrow source operation to a public thoroughfare if the subject property does not have direct access to a public thoroughfare.

**SECTION 905. CLUB OR LODGE (NOT REGULATED BY SECTION 924).**

A. The intensity of the use shall not have a significant adverse impact on adjacent properties due to traffic, parking, noise, refuse, or similar factors.

B. Additional setbacks and buffering may be required in the case of facilities for outdoor functions, such as outdoor arenas, if reasonably necessary to protect adjacent properties from noise, light, and glare.

C. Parking, loading and outdoor activity areas, such as outdoor exhibition areas, picnic areas, amphitheaters and outdoor stages and seating areas, must be buffered from view from adjacent properties. These buffers must meet the requirements of this ordinance.

D. The site plan shall indicate the style and location of all outdoor lighting.

E. There shall be no outdoor loudspeakers or public address system other than in an outdoor arena.

**SECTION 905.1 CONVENIENCE CONTAINER AND RECYCLING FACILITY**

A. Material shall not be stored outside of appropriate waste containers, and all such containers shall be located on a solid impervious surface such as concrete pads.

B. All structures on the site shall comply with the dimensional requirements for the zoning district in which the facility is to be located.

C. The site shall be maintained to prevent odors, rodents and any other nuisances.

D. The site shall have direct access to a paved public street.

E. Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

F. All environmental health rules and regulations, including Federal and State laws, shall be complied with.

G. One identification sign, as defined in Section 1302, shall be permitted in accordance with Article XIII.

H. Site obscuring buffers shall be provided in accordance with the provisions of Section 1102.G and are not included in the exemptions under Section 1102.G.2  
(Amd. 03-17-09)

### **SECTION 906 DAY CARE FACILITIES**

A. For day care facilities located within any residential or agricultural zoning district, the following provisions must be complied with:

1. Minimum lot size shall be 20,000 square feet.

2. The required minimum setbacks shall be as follows:

a. Front yard: 30 feet from any public or private street;

b. Rear yard setback: 35 feet;

c. Side yard setbacks: 20 feet; and

d. Corner lots: shall provide a minimum of 30 feet from both streets.

3. Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.

B. Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district.

C. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.

D. There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.

E. All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the most currently adopted North Carolina State Building Code.

(Amd. 11-20-06; Amd. 02-19-08; Amd.01-09-10; Amd. 02-01-21)

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

## **SECTION 907. DETENTION FACILITIES/PRISONS.**

In areas contiguous to residentially zoned or residentially developed areas, there must be a minimum 200 foot setback for detention facilities and 500 foot setback for prisons, which shall be measured from the exterior walls or fences of the detention facility or prison facility to the property line of any adjoining residentially zoned or residentially developed area or public right-of-way. In all other areas, the setbacks for detention facilities shall be in accordance with the standard zoning district dimensional provisions and, for prisons, a minimum setback of 200 feet from the property lines. In addition,

A. No minimum lot area is required; however, the lot shall be adequate to provide the yard space required by the district dimensional requirements of this ordinance, meet other standards contained in this ordinance, and comply with all Federal and State regulations;

B. A solid buffer shall be provided and maintained in accordance with this ordinance; however, more intensive buffering may be required when the use is near or adjacent to residentially zoned areas; and

C. Adequate off-street parking and loading space shall be provided on site. Any public street, sidewalk or right-of way or any other private grounds not a part of the detention facility parking area may not be used for the parking, loading, or maneuvering of vehicles.  
(Amd. 02-19-08)

## **SECTION 907.1. FIRING RANGE, OUTDOOR.**

A. A detailed site plan complying with the provisions of Article XIV shall be submitted for review and if approved, all applicable permits must be obtained prior to commencement of range activity. The detailed site plan shall be sealed by a North Carolina registered engineer attesting that the proposed plan incorporates the specific safety and design standards for outdoor firing range provisions and live fire shoot house provisions, if applicable, as set out in Section 4, Outdoor Range Design; Section 6, Live Fire Shoot House; and Attachments 1-2 through 1-20 of the *Range Design Criteria* (June 2012) as published by the US Department of Energy's Office of Health, Safety and Security for the type of range proposed; except that Section 4.b(10), the words "or administrative" in the first sentence of Section 4.c(7), the second sentence of Section 4.c(7) and Section 6.a(1) shall not be considered for the reason that these sections are specific to the needs of the DOE.

*[Editor's note: A hardcopy of the Range Design Criteria is available for public viewing in the office of the Current Planning section of the Planning & Inspections Department and a hyperlink is provided in this same section in the ordinance on the department's website.]*

B. The site on which the outdoor firing range is proposed shall contain a minimum of 200 acres within a tract or contiguous tracts owned or leased under a recorded lease to the owner/operator of the outdoor firing range. The detailed site plan shall show the boundary of the subject property in its entirety and shall further disclose all existing uses, if discernible, and structures within a distance of 300 feet from the boundary.

C. Surface danger zones shall be located entirely on the subject property and shall be designed to contain all projectiles and debris caused by the type of ammunition, targets and activities to be used or to occur on the property. The layout of the proposed range(s) with the accompanying safety fans shall be delineated on the required site plan for each/all range(s) to be constructed on the property. All firing stations shall be setback a minimum of 180 feet from the boundary of the subject property.

D. A 60 foot wide buffer, undisturbed except for fence installation and vegetative planting, shall be provided around the entire perimeter of the subject property and shall also be delineated on the detailed site plan.

E. A firing range facility must have access to an approved private street or a public street.

F. Unauthorized access to the firing range facility shall be controlled while firearms are being discharged.

G. The developer/operator of the firing range facility shall provide to Code Enforcement at the time of application for the building final inspection, a certification prepared by a North Carolina registered engineer that the firing range facility has an environmental stewardship plan, which may include semi-annual soil and water sampling, regular liming of the soil to prevent lead migration, reclamation and recycling of the lead and is compliant with the Best Management Practices, specifically relating to lead management, as specified by the Environmental Protection Agency's (EPA's) most current edition of *Best Management Practices for Lead at Outdoor Shooting Ranges*.

H. If any firing range facility, or the use thereof, is intended to be expanded to include types of ranges, operations, munitions or activities not covered by the most current conditional approval or pre-existing status, re-submittal/submittal of the site plan for the entire firing range facility for review and approval of the change or expansion shall be required prior to commencement of the change or expansion. This provision applies regardless whether or not the firing range facility was in existence prior to the adoption of this section.

I. All outdoor firing range facilities shall maintain general liability insurance coverage in an amount of not less than Three Million Dollars through an insurance company licensed to do business in North Carolina. The policy shall not exclude coverage for property damage or personal injury caused by the discharge of firearms.

J. All other applicable Federal, State and local regulations to include the County's Noise Ordinance shall be strictly adhered to.

K. This sub-section K shall specifically apply to all non-permitted existing uses which are outdoor firing ranges within the definition of this ordinance, except those as may be permitted in accordance with this sub-section. A permit shall be issued for any non-permitted outdoor firing range in operation on June 20, 2005, upon the submission of an application that shall include:

1. The date upon which the applicant commenced outdoor firing range operations on the site;

2. An aerial map which shows the boundaries of the site and the improvements located thereon;

3. A statement of the hours of operation;

4. A statement of the largest caliber ammunition discharged on the site; and

5. A narrative description of the measures employed (a) to control unauthorized access to the facility when weapons are being discharged, (b) to prevent projectiles from leaving the site, (c) to mitigate noise and (d) to mitigate potential lead contamination of the groundwater.

The permit issued under this sub-section K shall establish the benchmark for the determination of an expansion under sub-section H. Any facility permitted under this sub-section K shall remain subject to all other applicable state laws and local ordinances.

**SECTION 908. GOLF COURSES.**

A. The following setbacks include any permanent or temporary structure such as, but not limited to, clubhouse, equipment storage, green house, swimming pool, tennis courts and restaurant:

1. Front yard setback from any public street: 100 feet;
2. Rear yard setback: 200 feet;
3. Side yard setback: 200 feet; and
4. Corner lot setback from side street lot lines: 200 feet.

B. Minimum off-street parking spaces: four per hole, plus one per 200 square feet of restaurant and/or retail space, and one space per employee.

C. Incidental uses to a golf course may include pro shop, eating establishment, drinking establishment when in conjunction with an eating establishment (not including those operating under Section 924 of this ordinance), tennis courts, swimming pools, and practice area. Permitted incidental uses may continue only as long as the golf course is in operation and open.

D. Signs as permitted in the C1(P) Planned Local Business District are allowed.

**SECTION 909. GROUP HOMES.**

No group home may be located within a one-half mile radius of an approved or existing group home or approved or existing residential habilitation support facility, regardless of the jurisdiction of the approved or existing home or facility. A group home for not more than six resident handicapped persons, any one of whom may be dangerous to others as defined in N.C. GEN. STAT. §122C-3(11)(b) is not a permitted use in any residential district. (Amd. 02-19-08)

**SECTION 910. GROUP QUARTERS.**

A. Each room must have access to a hall or exterior door.

B. One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.

C. There shall be no less than one bathroom, consisting of a bath or shower, and lavatory, for each two guestrooms.

D. Guestrooms shall not be equipped with cooking facilities.

E. Parking shall be provided at the rate of one space for each room to be utilized and one space for each employee/owner. No parking shall be allowed in any front yard.

F. A fire protection plan approved by the County Fire Marshal must be submitted at the time of permit application.

G. The required site plan shall depict neighboring properties and buildings within 200 feet of property lines.

H. The site shall have direct vehicular access to a public street or an approved private street.

**SECTION 911. HAZARDOUS WASTE STORAGE/DISPOSAL FACILITY.**

A. In addition to the requirements for site plans as required in Article XIV, the following information shall also be provided at the time of application for permits:

1. Type of waste being stored, storage area and use areas;
2. Maximum amount of each material to be stored or used in each area;
3. Range of container sizes and types of materials to be stored in each; and
4. The location and type of emergency equipment to be supplied on site.

B. The site shall have direct access to a public street or an approved private street.

C. Any actual storage site/container shall be located at least 500 feet from any existing residential structure or from any residentially zoned or publicly utilized property, i.e., schools, parks, etc.

D. The storage, use, handling and disposal of all hazardous materials shall be in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA) and the United States Environmental Protection Agency (EPA) regulations thereunder, and the North Carolina Fire Prevention Code, Chapter 27 et al.

E. All buildings within the facility, including any accessory buildings for storage of hazardous materials, shall be at least 150 feet from property lines.

F. The facility and its operation shall observe all fire prevention and protection requirements.

G. Security fencing, a minimum of six feet in height, shall be provided along the entire boundary of the property.

H. The County Fire Marshal's written comments and documentation of their approval of plans shall be submitted with the Special Use Permit application.

I. Facility signage shall be in accordance with sign regulations for the M(P) zoning district. All hazard identification signs shall be posted as required by the Fire Prevention Code.

J. All proposed developments using and storing hazardous materials shall prepare and submit an Emergency Contingency Plan as part of its application. The Emergency Contingency Plan shall be prepared in accordance with the requirements of the Superfund Amendments and Reauthorization Act (SARA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Section 311 of the Clean Water Act, as amended. The plan shall identify buildings and the locations of points of storage and use of hazardous materials. The plan shall be approved by the County Engineer and the County Fire Marshal prior to submission of an application.

K. Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double-walled or have other secondary containment features.



**SECTION 911.1. INTERNET CAFÉ/VIDEO GAMING.**

The following standards apply regardless whether the internet café or video gaming facility is operated as a principal use, accessory use or incidental use:

A. The detailed site plan accompanying the application shall comply with the provisions of Article XIV and when the internet café/video gaming facility is to be located on a lot with other existing uses, all existing uses on the same lot must be labeled on the appropriate building footprint as shown on the detailed site plan;

B. Each such establishment shall be located no closer than 2,500 feet from another internet café/video gaming facility, regardless of the jurisdiction in which the facility is located;

C. Each such establishment shall not be located within 500 feet of any area zoned for residential use, properties containing residential unit(s), religious worship activity, nursery school, day care facility, educational facilities, any public or non-profit recreation or amusement and any public or private school regardless of the zoning district in which located and shall be measured from the property line(s) containing such regulated use;

D. In the event there is a change in the operational characteristics of the facility in which the internet café/video gaming operation is located, re-submittal of an updated complete application and site plan for re-review and approval prior to enacting the proposed change;

E. This establishment shall not be located within the same facility as a commercial entity in the business of providing open alcoholic beverages (to include liquor, fortified wine, unfortified wine and beer), for sale or otherwise provided and alcohol sales within the establishment shall not be permitted;

F. No establishment shall contain any computer, computer program or gaming machine that has been declared to be banned in the State of North Carolina;

G. Off-street parking shall be provided at the rate of one space for each gaming machine independent of the off-street parking required for all/any other use on the same property;

H. Signage shall be as regulated in Article XII; and

I. Internet cafes/video gaming facilities shall not operate between the hours of 2:00 am to 7:00 am.

**SECTION 912. KENNEL OPERATIONS.**

A. The site plan for kennel operations shall include information as to any outside pen area, shelters, fencing, runs, etc. pertaining to the kennel operations.

B. Shelters, runs, and pen areas shall not be located any closer than fifteen feet to any property line for kennels located in agricultural and residentially zoned districts.

C. The required shelter shall be fully enclosed on three sides, roofed, and have a solid floor.

D. A vegetative buffer shall be required along the side and rear property lines and must comply with the provisions of Section 1102.G. In addition, a privacy fence may be required if it is determined the fence would alleviate any detrimental effects on neighboring properties.

E. Kennel operations shall not be allowed in residential districts if the minimum lot size required by the zoning district of the subject tract has been compromised or otherwise reduced in area as required by the zoning district, i.e., Zero Lot Line developments.

F. Kennel operations including all pens, shelters, etc., are required to meet the setbacks as required by the zoning district.

G. *Repealed.*

*(Amd. 11-20-06; Amd. 02-09-08; Amd. 09-16-08; Amd. 10-15-12)*

### **SECTION 913. MANUFACTURED HOMES.**

Manufactured homes placed, erected or located on any parcel or lot, shall comply with the standards of the County's Minimum Housing Ordinance and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development in order to qualify for any permits under the terms of this ordinance and the County Subdivision Ordinance.

This section shall not apply to "properly set up", Class C manufactured homes requiring relocation when a manufactured home park owner or a government agency, such as the County Health Department, has mandated the closure of a previously approved or pre-existing nonconforming manufactured home park provided that the Class C manufactured home is owner-occupied and shall only be relocated to an approved manufactured home park or a pre-existing nonconforming manufactured home park.

*(Amd. 01-19-10)*

For purposes of this section, "properly set up" means:

- A. In actual use for residential purposes;
- B. Lawfully connected to electricity, water and sewer or septic service;
- C. In compliance with the County's Minimum Housing Ordinance; and
- D. Listed for property taxes and having property taxes paid as of the most recent listing period and the previous five calendar years.

*(Amd. 01-19-10)*

### **SECTION 914. MINI-WAREHOUSING IN RESIDENTIAL DISTRICTS.**

For all mini-warehousing units constructed in residential districts, the following standards shall apply:

A. The units shall only be constructed in conjunction with multi-family housing units and the number of individual storage units shall not exceed the number of multifamily dwelling units within the development;

B. The façade of the mini-warehousing site shall be constructed with decorative and permanent material, such as brick, stone, etc., and be of the same type of material as the exterior of the multi-family units; and

C. The sides and rear perimeter of the mini-warehousing site shall be buffered and landscaped in such a manner as to blend in with the surrounding development and to not be visible to adjacent residential areas.

*(Amd. 02-19-08)*

**SECTION 914.1. MIXED USE BUILDING.**

A. Mixed use buildings are allowed uses in the O&I(P) Planned Office & Institutional, C1(P) Planned Local Business, C2(P) Planned Service and Retail and C(P) Planned Commercial districts;

B. Residential uses within a mixed use building shall not exceed 40 percent of the total floor area, with a minimum of 60 percent of the floor area of all structures devoted to the non-residential use(s) as within the specific zoning district of the property;

C. All “for sale” residential units are subject to the provisions governing Unit Ownership developments in the County Subdivision Ordinance;

D. The development must be served by public or community water and sewer;

E. The subject property must have direct vehicular access to a paved public right-of-way;

F. Off-street parking shall be provided in accordance with Article XII for the non-residential use, and one and one-half spaces for each residential unit. Shared parking shall be encouraged and permitted when it can be substantiated that the hours of operation of the non-residential use are restricted to daylight hours and will not adversely affect the residential parking needs;

G. The minimum lot area per residential unit shall be 1,000 square feet not including the lot area utilized by the non-residential use. The site plan must provide the calculations indicating compliance with this provision;

H. Sidewalks are required in accordance with the standards of the County Subdivision Ordinance;

I. A fee in lieu of dedication of on-site parks, recreation, and open space is mandatory. This fee is to be calculated in the same manner as established in the provisions governing parks, recreation and open space in the County Subdivision Ordinance;

J. The façade of the buildings approved for mixed use in a non-residential district shall be of a commercial design; and

K. There shall be no ancillary, accessory or incidental residential use of the property outside the mixed use building.

*(Amd. 03-01-06; Amd. 02-19-08; Amd. 01-19-10)*

**SECTION 915. MOTOR VEHICLE WRECKING YARDS AND JUNKYARDS.**

A. All fluids from vehicles, transmission, brake fluid, gasoline, etc. shall be drained from any vehicle before the vehicle is stored. The fluids shall be drained into approved containers and be disposed of according to approved environmental procedures and Environmental Protection Agency (EPA) regulations.

B. A cement pad shall be installed for fluid drainage to prevent soil pollution or contamination.

C. If at any inspection, fluids are determined to have been placed or drained in the ground/soil, the permit shall be revoked immediately.

D. Unless specifically approved otherwise, vehicles shall not be stacked.

E. If stacking is specifically approved, the stacked vehicles are to be shielded in such a manner that they cannot be seen from any adjacent residentially zoned or residentially used properties.

F. The vehicle storage area shall be contained entirely within a six-foot high solid fence with a vegetative buffer planted along the outside of the fence along the entire perimeter of the property.

G. The maximum number of vehicles stored on the site at any one time may be restricted to a specific number.

H. The vehicle storage area shall not exceed more than 50 percent of the property.

I. Appropriate insect and rodent control procedures shall be adopted that comply with County Health Department procedures.

**SECTION 916. NON-RESIDENTIAL USE AS A PERMITTED USE IN A RESIDENTIAL OR AGRICULTURAL DISTRICT (AND NOT OTHERWISE LISTED WITHIN THIS ARTICLE).**

A. Site plan review and approval in accordance with Article XIV and providing for the specific information required by this section.

B. The minimum yard requirements shall meet or exceed those required in the C1(P) zoning district.

C. Required parking shall be paved if otherwise required to be paved by this ordinance. In these circumstances, paved parking shall be provided with all parking areas and internal drives being clearly marked. In addition, no parking shall be permitted in the required front yard.

D. Buffering and/or landscaping for the use shall be provided and maintained in such a manner as to comply with the standards of this ordinance (Section 1102.G) and is dependent upon the zoning and nature of the surrounding area. The site must provide ample area and adequate open space on all sides of the structure so that the character of the neighborhood is preserved.

E. The subject property shall have direct access to a public right-of-way or approved private street. In the event a private street is the means of access, consent by the common lot owners responsible for maintenance of the private street is required. Also, the plan shall include proposed points of access, ingress, and egress and the pattern of internal circulation. Points of ingress and egress shall be located so as to minimize traffic hazards, inconvenience and congestion. The existing access streets must be able to handle the anticipated increase in traffic volume, or the developer shall cover the costs of upgrading the streets; such as, but not limited to, the addition of a turning lane.

F. Signage for the development shall not exceed those allowed under Section 1306.A.

G. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 p.m. and 7:00 a.m. In any case, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's aforementioned Noise Ordinance is required. (Note: dB(A) refers to the sound pressure level in decibels as measured on a sound level meter using the A weighting network.)

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)*

**SECTION 917. NURSING HOME/CONVALESCENT HOME/HOSPITAL/SANITARIUM /RETIREMENT HOME, ETC.**

A. The facility shall not cover more than 50 percent of the tract.

B. Must meet all requirements for licensing by the State of North Carolina.

C. In addition to basic requirements for site plans as required in Article XIV, the plan shall include proposed points of access, ingress and egress, the pattern of internal circulation, and the layout of parking spaces.

D. All facilities shall be solely for the use of residents and their guests.

E. Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site.

**SECTION 918. PUBLIC UTILITY WORKS, SHOPS OR STORAGE YARDS.**

A. All structures shall be designed and landscaped in a way as to blend in with the surrounding area.

B. A chain link fence shall enclose all dangerous apparatuses and shall be at least eight feet in height.

C. All motor vehicle parking shall be located within the area circumscribed by the buffered/screened area.

D. Such facilities shall have direct access to a public street or an approved private street.

*(Amd. 01-19-10)*

**SECTION 919. QUARRY.**

A. No minimum lot area is required but, the lot shall be adequate to provide the yard space required for the M(P) Planned Industrial District and meet the standards of this section.

B. The temporary erection and operation of plants and equipment necessary for crushing, polishing, dressing or otherwise physically or chemically processing the material extracted on the site shall comply with the district dimensional requirements of the M(P) zoning district.

C. All equipment used for excavation, quarrying and permitted processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which would injure or annoy persons living or working in the vicinity.

D. Access ways or drives within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.

E. No excavation shall be made closer than 200 feet from the banks of any river, stream, creek or waterway except by submission of documentation, verified by the County Engineer, that such excavation or quarrying shall not impair the lateral support needed for permanent stream levees.

F. All excavations shall be made either to a depth of five feet below a water producing level, or graded or back-filled with non-noxious and non-inflammable solids to assure that the excavated area will not collect and retain stagnant water or that the graded or back-filled surface will create a gentle rolling topography to minimize erosion by wind or rain and substantially conform with the contour of the surrounding area.

G. Whenever the floor of a quarry is five feet or more below the grade of adjacent land, the property containing the quarry shall be completely enclosed by a barrier either

consisting of a mound of earth not less than six feet high located at least 25 feet from any street right-of-way and planted with a double row of quick growing vegetative landscaping, or shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of six feet along the property line.

H. An excavation shall be located 100 feet or more and back-filled to 150 feet from a street right-of-way line. Quarrying operations shall be located 50 feet or more from a street right-of-way line and to any property boundary line. With approval by the County Engineer, such excavation or quarrying may be permitted inside these limits in order to reduce the ground elevation to the established street grade.

I. More intensive buffering than the normal standard may be required when the development is near or adjacent to residentially zoned areas.

J. A reclamation plan shall be submitted along with the site plan and the application. All such reclamation plans shall include the following:

1. A grading plan showing existing contours in the area to be extracted and proposed future contours showing the topography of the area after completion. Such plans shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less.

2. Existing and proposed drainage of the area.

3. Details of re-grading and re-vegetation of the site during and at conclusion of the operation. The following are the minimum requirements to be met at the conclusion of the operation:

- a. The banks of all extraction, when not back-filled, shall be sloped at a grade of not less than two feet horizontal to one foot vertical. This slope shall be maintained 20 feet beyond the water line if such exists.

- b. Spoil banks shall be graded to a level suiting the existing terrain.

- c. All banks and extracted areas shall be surfaced with at least six inches of suitable soil, except exposed rock surfaces, and shall be planted or seeded with trees, shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the County Engineer.

K. When any extraction has been completed, such area shall either be left as a permanent spring-fed lake or the floor thereof shall be leveled in such manner as to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion.

L. All equipment and structures shall be removed within three months of the completion of the extraction of materials.

M. The facility must be permitted by the North Carolina Department of Environment and Natural Resources and/or other applicable Federal, State, and local agencies.

## **SECTION 920. RECREATION OR AMUSEMENT, PUBLIC/PRIVATE & INDOOR/OUTDOOR.**

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) zoning district.

B. The site shall have vehicular access to a paved public street.

C. *Repealed.*

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>



D. All outdoor lighting shall comply with the standards of Section 1102 M.

E. If the facility is of such a use that would be conducted on dirt (i.e., ball fields, go cart tracks, etc.) measures shall be taken to minimize the creation of dust.

F. Fencing, netting, or other control measures shall be provided around the perimeter of any areas used for hitting, flying, or throwing of objects to prevent the object from leaving the designated area.

G. A minimum of three acres of land is required for mechanized outdoor recreation areas and the detailed site plan and application shall provide adequate information to ensure the increase in motor vehicle traffic will not adversely impact any surrounding residential neighborhoods.

*(Amd. 01-19-10; Amd.04-18-11)*

#### **SECTION 921. RECREATION VEHICLE PARK AND/OR CAMPGROUND.**

A. Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations, cabins and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.

B. The area of the park/campground shall be at least three acres. Each recreation vehicle/cabin/open air cabins camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material. Cabin sites shall not exceed more than twenty percent of the total proposed sites within the recreation vehicle/campground site. The maximum size of the proposed cabins shall not exceed 400 square feet and shall be identified as being either a cabin or open air cabin. Cabins shall not have bathrooms within the cabin and must be served by a bathhouse located within 500 feet from the entrance of the cabin to the entrance of the bathhouse.

C. All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.

D. Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets with the entrance to the park directly accessing a public right-of-way. A driveway permit must be obtained from the North Carolina Department of Transportation for connection to the public street.

E. The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days with a maximum allowance of 180 days per calendar year within the same park. There must be a minimum 30-day waiting period between stays within the same park for each recreational vehicle/occupant. Each recreation vehicle park/campground shall be required to maintain a registry or logbook identifying, at a minimum, the recreation vehicle license plate number and Vehicle Identification Number for recreation vehicle sites and/or names of occupants in campground sites which will be subject to inspection by the County during regular inspections. Upon the adoption date of this amendment, existing recreation vehicle parks will also be required to comply with the logbook requirement.

F. Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, bathhouses, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:

1. Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

2. The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.

3. Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the North Carolina Building Code.

4. Each park shall be limited to a maximum of one manager's/ caretaker's residence.

G. Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.

H. Internal drives shall be constructed to a minimum of 18 feet in width if providing two-way streets and 12 feet in width for one-way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.

I. Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscape screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment and complies with the buffering requirements for non-residential uses adjacent to residential districts.

J. In addition to the requirements required to be shown on the site plan as required by the Article XIV, the site plan shall include the name and address of the applicant, the location and dimensions of each recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this Section shall also require approval from the County Health Department.

K. When permitted, recreation vehicle parks/campgrounds within the CD Conservancy District shall be subject to the following requirements:

1. No individual recreation vehicle/camping site shall have individual on-site septic systems.

2. Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.

L. All Federal, State and other local regulations shall be complied with.  
(Amd. 11-20-06; Amd. 01-19-10; Amd. 04-20-20)

## **SECTION 922. RESIDENTIAL HABILITATION SUPPORT FACILITY.**

A. Minimum lot size: 20,000 square feet.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

B. The structure must pass all health and fire inspections.

C. The property must be at least a one-half-mile radius from an existing or approved residential habilitation support facility or an existing or approved group home, regardless of the jurisdiction of the existing or approved facility or home.

D. The following setbacks shall be minimum yard requirements, except where the zoning district in which the facility is located has greater dimensional requirements, the zoning district setbacks apply:

1. Front yard: 50 feet from any public or private street.
2. Rear yard: 35 feet; and
3. Side yard: 25 feet.

E. Off-street parking shall be provided at the rate of two spaces plus one for each caregiver.

F. The facility shall have direct access to a paved public street meeting North Carolina Department of Transportation standards.

G. The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.

*(Amd. 02-19-08; 01-19-10)*

#### **SECTION 923. SECOND HAND, PAWN AND FLEA MARKET.**

A. Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted during the hours when the commercial operation is open for business. No storage or display shall be permitted within a public right-of-way.

B. Vehicle parking shall be provided entirely on site. Traffic generated by the business shall not impede the normal flow of traffic on any public right-of-way.

#### **SECTION 924. SEXUALLY ORIENTED BUSINESSES.**

Sexually oriented businesses are some of the uses which, because of their very nature, may have serious objectionable characteristics, particularly when several of them are concentrated in one area, thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. Special regulation of sexually oriented businesses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and applicable criteria are contained in this section.

Sexually oriented businesses shall be allowed only in the C(P) Planned Commercial District and M(P) Planned Industrial District subject to the following:

A. Sexually oriented businesses shall not be located within 2500 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the building(s) containing such regulated use.

B. No sexually oriented business shall be located within 3,000 feet of any area zoned for residential use or from the property line of residential unit(s), religious worship activity, nursery school, day care facility, any recreation and amusement not regulated

herein, and any public or private school regardless of the zoning district, and shall be measured from the property line(s) containing such regulated use.

C. Buffering complying with the standards of Section 1102.G shall be placed around the entire perimeter, including road frontage, for all sexually oriented businesses.

D. No nude or seminude service or entertainment of any kind shall be allowed outside the building of such use.

E. The provisions of this article shall not apply to “Massage and Bodyworks Therapy” as defined in Article II of this ordinance and to the extent regulated by N.C. GEN. STAT., Chapter 90.

#### **SECTION 924.1. SOLAR FARMS**

A. Solar farms shall be located on a minimum 20-acre tract and shall comply with the minimum yard setbacks for the zoning district in which the property is located.

B. Solar farms shall not be constructed over any onsite wastewater system unless otherwise specifically approved by the County’s Environmental Health Department.

C. Every component of the solar farm shall be limited to a maximum of 20 feet in height; this provision shall not include the interconnection poles, substation equipment or other devices necessary for the electricity to be delivered to the public utility substation.

D. Streetscape landscaping and buffering as required in Section 1102 shall be provided.

E. The military Garrison Commander or the commander’s representative shall be afforded a maximum of ten days to comment on any proposed solar farm site plan submittal.

F. After site plan approval and prior to permit application, the developer must submit the Federal Aviation Administration’s FAA Form 7460-1, filed under Part 77 and included in the Obstruction Evaluation Program, in which the FAA must determine the proposed solar farm to be no obstruction/hazard to air traffic. For all proposed solar farms within five miles of the Fayetteville Regional Airport, a solar glare analysis, with the Airport Director’s approval, indicating “no glare” shall be attached to the Form 7460-1 and included with the Form 7460-1 when presented for permit application. The Solar Glare Hazard Analysis Tool (SGHAT) may be found at [www.sandia.gov/glare](http://www.sandia.gov/glare).

G. In the event power production ceases for a period of six (6) months, the owner of the real property upon which the solar farm is located shall remove from the site all the components of the solar farm, to include equipment, conduit, structures, foundations and any other improvements or devices used in the installation or operation of the solar farm and dispose of these components in accordance with applicable law. The owner’s failure to remove and dispose of these components within nine months from the date which power production ceases shall constitute an unlawful condition existing upon or use of the real property which may be enforced by all the remedies available under this ordinance and N.C.G.S. § 153A-123.

H. All Federal, State and other local regulations shall be complied with.  
(Amd. 05-18-15)

#### **SECTION 925. SOLID WASTE DISPOSAL FACILITY.**

A. No such facility shall locate within 2500 feet of an existing residential structure or of residentially zoned property.

B. No material shall be stored outside of appropriate waste containers, and all such containers shall be located on a solid impervious surface such as concrete pads.

C. All structures on the site shall comply with the dimensional requirements for the zoning district.

D. The site shall be maintained to prevent odors, rodents and any other nuisances.

E. The site shall have direct access to a paved public street.

F. Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

G. All environmental health rules and regulations, including Federal and State laws, shall be complied with.

H. One identification sign, as defined in Section 1302, shall be permitted in accordance with Article XIII.

#### **SECTION 926. THEATER PRODUCTIONS, OUTDOOR.**

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) Planned Local Business District.

B. The site shall have direct vehicular access to a collector or higher-level street.

C. In non-commercial districts, hours of operation shall be between sunrise and sunset. Noise levels shall not pose a nuisance to neighboring properties.

D. All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots and security. In these cases, fully shielded lights must be used.

#### **SECTION 927. TOWERS.**

A. A communication tower and associated equipment totally concealed within a building or structure so as to be architecturally indiscernible shall not be regulated as a tower under this section.

B. The applicant, owner, or developer of a tower that is to be at least 75 feet in height shall submit a site plan with the application for permits to authorize construction or erection of the tower. The site plan shall include:

1. Identity of the proposed or intended user(s) of the tower.

2. The certification of a registered engineer that the tower has the structural integrity and/or capacity to support or to accommodate more than one use or user.

3. The statement and supporting information and documentation by the applicant, owner, or developer that no structures or facilities suitable for collocation are available within the coverage area.

4. The statement of the owner indicating the intent and willingness to permit shared use of the tower and the potential for or limitations on the number of other users that the proposed tower can accommodate.

5. Elements and design that meet all requirements of this ordinance and the County Subdivision Ordinance.

C. Setbacks as prescribed below are intended for the assurance of public safety and protection of the property rights of adjacent property owners and shall not be less than the minimum required and shall not be varied by the Board of Adjustment:

1. Residential/Agricultural Zones. Towers in any residential or agricultural district shall be set back from all adjacent property lines and/or lease lines a distance not less than the height of the tower. The distance shall be measured from the base of the tower.

2. Commercial/Industrial Zones. Any tower shall be set back from property and/or lease lines a minimum of 50 feet or one foot of setback for each two feet of tower height, whichever is greater.

D. Structures located near towers shall not encroach upon the setbacks of the towers, unless such towers are of monopole design and construction, in which case buildings and structures may be located within the setback distances.

E. A chain link fence at least ten feet in height and located at least ten feet from the base of the tower shall enclose the tower base.

F. A buffer area at least 25 feet wide shall surround the tower compound. The buffer shall shield the compound area from the entire tract. No structures, including guyed wires or anchors, may be constructed or located within the buffer. The buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet within four years and be spaced no greater than 20 feet apart. The inner fringe of the buffer area shall be planted with an evergreen hedge that shall have an initial height of at least three feet and an expected attainment of six feet in height within four years of planting. The hedge shall constitute a complete shield or visual blockage. If the Coordinator determines that a natural buffer already exists on site that substantially complies with the purpose and intent of this performance standard to an equal or greater degree, such an alternative natural buffer shall be considered adequate. If an alternative natural buffer is used, the user shall be responsible to ensure that the buffer remains compliant for as long as the tower remains. If a buffer is altered to an extent where it no longer serves to shield or obscure the compound from view, the applicant or tower user(s) shall install buffers as required by this section.

G. The applicant, owner or developer shall certify that the proposed tower will be constructed and operated in accordance with all applicable Federal, State and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

H. Prior to the issuance of a building permit for a tower, the applicant, owner or developer shall submit drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards.

I. *Repealed.*

J. The tower's height shall not exceed 450 feet. When a tower is located on a building or structure, the combined height of the building or structure and the tower shall not exceed 450 feet, except in the A1 Agricultural District. The height of a tower located in



the A1 Agricultural District shall not be restricted. However, a tower located in the A1 Agricultural District must meet all applicable setbacks.

K. The exterior appearance of any building or structure associated with a tower and located in a residential zone shall maintain a residential architectural quality including, without limitation, a pitched roof and frame or brick veneer construction.

L. No building or structure associated with a tower and located in a residential zone may be used as a work site for any worker. However, periodic maintenance, inspection and renovation of the facility shall be permitted.

M. Each applicant, owner or developer shall demonstrate that the use will not be detrimental or injurious to the property values of the surrounding neighborhood. In zoning districts where the tower is a use by right, the applicant, owner or developer may satisfy the requirement by submitting a statement signed by a licensed appraiser or real estate broker which expresses an opinion that the use will not be detrimental or injurious to the property values of the surrounding neighborhood.

N. *Repealed.*

O. To protect the public from unnecessary exposure to electromagnetic radiation, the applicant, developer, owner or operator of the tower shall document that the power density levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever is stricter.

P. If lighting is required by the FAA, it shall meet or exceed the FAA standards. To the extent allowed by FAA regulations and standards, strobes shall not be used for nighttime lighting. To the extent permitted by Federal statutes, regulations and standards, the lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant, developer or owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA.

Q. A tower not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Coordinator may establish a shorter period of time for the removal of a tower that is structurally unsound.

R. The owner or operator of a tower shall submit a statement signed and sealed by a licensed engineer that the tower will be structurally sound.

S. If the Coordinator determines a tower is not structurally sound, the owner or operator of the tower shall, within 60 days or a shorter time period if required by the Coordinator, complete repairs to restore the structural soundness of the tower.

T. The owner, applicant, or developer shall camouflage the tower so that it blends into the surrounding area. Methods of camouflage include paint, architectural design or structure, and other means.

U. No outside storage on the site of the tower shall be permitted.

V. All tower sites shall comply with the provisions of the County Subdivision Ordinance.

*(Amd. 02-19-08; Amd. 01-19-10)*

## **ARTICLE X OTHER USES**

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## **SECTION 1001. TEMPORARY USES.**

The Coordinator may issue a temporary Certificate of Occupancy for the following uses in accordance with the provisions of this section. In cases where the desirability of permitting the use is questionable and the application for the temporary Certificate of Occupancy is denied, the matter shall be appealed to the Board of Adjustment for a decision in accordance with Article XVI.

A. Temporary Events. A temporary occupancy permit may be issued for bazaars, carnivals, religious revivals, sports events, circuses, festivals and similar uses for a limited fixed period of time not to exceed 30 days in any one calendar year, and as the Coordinator may impose based on the character of the district affected.

B. Temporary Construction Offices. A temporary occupancy permit may be issued for construction offices in any district at any site where erection, addition, relocations and/or structural alterations are taking place, provided that such construction office shall be removed immediately upon completion of the project.

C. Temporary Office and Exhibition. A temporary occupancy permit may be issued for mobile structures used solely as offices or for purposes of exhibition in any district for a fixed period of time not to exceed six months and only upon satisfactory evidence that the use of such mobile structure shall not violate any code or regulation or the intent of this ordinance. The temporary permit may be renewed upon similar evidence of use of such mobile structure.

D. Yard Sales. A permit is not required; however, a resident and/or family household is limited to no more than four separate yard sales, each of which may consist of a one- or two-day period within any calendar year, within any residential or agricultural district. The hours of operation are limited to daylight hours on the day(s) the sale occurs. The person conducting the yard sale (tenant or property owner) shall be responsible for the prevention of any negative effects on neighboring properties and prevention of impeding the normal flow of traffic on public rights-of-way. Also, the person conducting the sale shall ensure that all property being sold is personal property, as defined in Article II, and that any residual items at the conclusion of the sale are not stored outside the residential dwelling in a permanent or semi-permanent manner. Signage shall only be allowed on-site, and strict compliance with sign regulations enumerated in Article XIII.

E. Mobile Storage Units. Temporary self-contained storage units shall be permitted to be located between a principal structure and the street for a period of time not to exceed 14 calendar days.

*(Amd. 02-19-08)*

## **SECTION 1002. INCIDENTAL USES.**

A. Home Occupations. A home occupation shall be permitted as an accessory use to any dwelling unit and may be conducted in the principal structure or an accessory structure provided that:

1. The principal person or persons providing the business or service resides in the dwelling on the premises;
2. The area used for the business or service does not exceed 25 percent of the combined floor area of the structures or 500 square feet, whichever is less;
3. All work associated with the home occupation is conducted inside the designated building(s);

4. An attached sign not more than two square feet in area is allowed;
5. The property contains no outdoor display or storage of goods or services associated with the home occupation;
6. The home occupation causes no change in the external appearance of the existing building and structures on the property;
7. One additional parking space is allowed;
8. Wholesale sales of goods do not occur on the premises;
9. The home occupation employs no more than one person who does not reside on the premises;
10. The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;
11. One vehicle, no heavier than  $\frac{3}{4}$  ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner, so as not to disrupt the quiet nature and visual quality of the neighborhood;
12. A small home day care shall be permitted as accessory to any dwelling unit, provided that the following additional conditions are met, as well as the other conditions of this section:
  - a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and
  - b. No more than eight children who are unrelated to the operator can be cared for during any 24-hour period.
13. All Federal, State, and local regulations, including the County Environmental Health regulations are complied with in the conduct of the home occupation.

B. Outside Storage and Display. Outside storage of goods, equipment and material shall be prohibited in any O&I(P) and any outside storage in the C1(P), C2(P) or C(P) district shall be buffered from view from any public street. Outside display of merchandise which is normally required in conducting the commercial operation is permitted in any of the above-named districts except the O&I(P) District.

*(Amd. 02-19-08; Amd. 04-18-11)*

C. Swimming Pools. Every swimming pool, public and private, as defined by this ordinance is permitted as an incidental use and shall be regulated as follows:

1. The setback for a swimming pool from any side and rear lot line shall be ten feet.
2. A fence shall be erected to a minimum height of four feet to completely enclose the portion of yard containing the pool and shall include a gate that can be securely fastened for below-ground pools. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the most currently adopted North Carolina State Building Code.

*(Amd. 01-19-21)*

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3. All mechanical equipment shall be located a minimum of five feet from any property line.

4. All floodlights shall be shielded from adjacent properties to reduce offensive glare.

5. All electrical wiring shall be in conformance with the National Electrical Code.

6. A water discharge plan for the proposed use shall be submitted showing the location of buildings, yard dimensions and other pertinent data. This plan shall also stipulate the type of system used for disposal of waste from the site. No permit shall be issued until the Coordinator determines that the water discharge plan is adequate by meeting one or more of the following criteria:

a. The discharge system shall drain directly into the street storm drainage system, other public storm drainage systems or natural stream; or

b. Enough hose is made available to discharge such water into the above public ways; or

c. That water discharge can be accomplished on the lot without threat of discharge onto adjacent lots.

7. In any zoning district, a swimming pool may not be located in a required front yard, including residential corner lots subject to Section 1101 G.

*(Amd. 02-19-08)*

D. Accessory Retail Uses. Accessory retail uses include shops incidental to a hospital or clinic, variety, book, cafeterias, soda bars, coffee shops, beauty shops, and barbershops incidental to institutional or professional office buildings or manufacturing facilities. Accessory retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students or visitors and not the general public. Such retail use, which is conducted wholly within the principal building without access thereto other than from within the building, without exterior advertising display, shall be permitted.

E. Accessory Structures. The following provisions apply to all accessory structures:

1. Accessory structures shall not be rented or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.

2. Accessory buildings not intended to be used for living quarters shall not be constructed upon a lot until the construction of the principal building has commenced.

3. Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure.

4. Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)*

### **SECTION 1003. NONCONFORMING USES.**

A. General Provisions. No structure or land containing a nonconforming use shall

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hereafter be increased, nor shall its total value be enhanced, except as provided in this section.

B. Discontinuance/Buffering of Open-Air Outside Uses. All nonconforming uses not carried on within a structure, except those which are incidental and necessary to activities within a structure, shall be discontinued within three calendar years from the effective date of this ordinance unless they can be adequately buffered so that the nonconforming use is not visible to the surrounding properties and these such uses shall be buffered in accordance with Section 1102.G within two calendar years from the effective date of this ordinance. Uses to be discontinued or buffered under this Section shall include outdoor sales areas, motor vehicle parking lots not immediately adjacent to and used in conjunction with a structure that the parking lot serves, storage yards, signs, billboards and similar uses. Where nonconforming use status applies to structure(s) and premises in combination, if the structure(s) are removed or destroyed, the nonconforming use of the land shall cease and any subsequent use of the land and buildings placed thereon shall conform to the provisions of this ordinance.

C. Continuance of Nonconforming Uses. No nonconforming use may be changed, expanded or resumed to any other nonconforming use, unless the Board of Adjustment finds that such use is no more detrimental to the neighborhood than the initial nonconforming use of the property in question. No change of title or possession or right to possession of property with a nonconforming use shall be construed to prevent the continuance of such nonconforming use.

D. Continuance of Nonconforming Structures. A structure that is nonconforming due to noncompliance with dimensional requirements, and which is a permitted use in the district, may continue, provided that its nonconformity is not increased. Structural changes which decrease or do not affect the degree of nonconformity, regardless of cost and/or increase in value, shall be permitted. Routine repairs, maintenance, rehabilitation and renovations, regardless of value, shall be permitted.

E. Reconstruction Prohibited. Any nonconforming structure or any structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and its use resumed if that occurs within one year of such damage, unless such structures have been determined by the Coordinator to have been damaged to an extent exceeding 50 percent of its then reproducible value or its bulk, exclusive of foundations, in which case any repair, reconstruction or use shall conform with the provisions of this Ordinance.

F. Resumption of Nonconforming Use Prohibited. Resumption of a nonconforming use of a structure shall not be permitted if such nonconforming use is discontinued, or ceases regardless of intent, for a continuous period of one calendar year.

*(Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)*

#### **SECTION 1004. NONCONFORMING MANUFACTURED HOME LOTS AND PARKS.**

Notwithstanding any other provisions of this section to the contrary, the continuance of the use of land and structures for individual manufactured home or manufactured home park purposes in zoning districts in which individual manufactured homes or manufactured home parks are not a permitted use shall be regulated as follows:

A. Individual Nonconforming Manufactured Home Uses. Individual lots in districts not zoned for manufactured home use on which there is located a preexisting (i.e., thereon at the time of such zoning) nonconforming manufactured home may continue to be used as an individual manufactured home lot, subject to the following conditions:

1. In the event that the use of the nonconforming individual lot as a site for a pre-existing individual manufactured home is discontinued for a period of one year or more,

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such use of the lot shall not be resumed, and only the uses permitted for the zoning district in which the lot is located shall be allowed.

2. A manufactured home that was located on a nonconforming individual manufactured home lot at the time the district in which the lot is located was zoned shall not be replaced except in accordance with the provisions of sub-section C below.

B. Continuance of Preexisting Nonconforming Manufactured Home Park Uses. Tracts or parcels of land in districts not zoned for manufactured home park use on which there is located a preexisting nonconforming manufactured home park may continue to be used as a manufactured home park, subject to the following conditions:

1. In the event that the use of a tract or parcel of land, or part thereof, as a manufactured home park is discontinued for a period of one year or more, such use of the land, or part thereof, shall not be resumed, and only the uses permitted for the zoning district in which the land is located shall be allowed.

2. A manufactured home that was located in a preexisting nonconforming manufactured home park at the time the district in which the park is located was zoned shall not be replaced except in accordance with the provisions of sub-section D below.

C. Replacement of Preexisting Manufactured Homes on Individual Nonconforming Lots. A preexisting manufactured home on an individual nonconforming manufactured home lot may be replaced by another manufactured home during the period in which the preexisting nonconforming use of the lot is allowed to continue, provided that the replacement structure, as newly positioned on the lot, conforms to the following requirements:

1. The replacement structure in any residentially zoned district shall be a Class A manufactured home, and the replacement structure in any of the following non-residential zoning districts: O&I(P) Planned Office and Institutional, C1(P) Planned Local Business, C2(P) Planned Service and Retail, C(P) Planned Commercial, M1(P) Planned Light Industrial, and M(P) Planned Industrial shall be a Class A or Class B manufactured home as defined in this ordinance, provided that such replacement structures are used exclusively for residential purposes.

2. The replacement structure shall meet the structure dimensional requirements and other applicable provisions of this ordinance for the zoning district in which the lot is located.

3. The replacement structure shall meet the current County Health Department regulations pertaining to sewage and water systems; the current requirements of the County Fire Prevention Ordinance; and the current requirements of the County Minimum Housing Code.

4. In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

D. Replacement of Preexisting Manufactured Homes in Nonconforming Manufactured Home Parks. A preexisting manufactured home in a nonconforming manufactured home park may be replaced by another manufactured home during the period in which the preexisting nonconforming use of the land on which the park is located is allowed to continue, provided that the replacement structure, as newly positioned in the park, conforms to the following requirements:

1. The replacement structures shall be placed in the manufactured home park so that the structure in place is set back from the external boundaries of the park a distance that meets the dimensional requirements and other applicable provisions of this

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ordinance for the zoning district in which the park is located, as though the park were a single lot or tract within such district. For the purposes of this section, front yard setback requirements shall be measured from a public street constituting an external boundary of the park, if any. Other setback requirements shall be treated as rear and side yard setbacks, as appropriate, and be measured from the boundary of the park other than a public street.

2. The replacement structure and the manufactured home lot on which it is placed shall meet the current internal dimensional requirements for a manufactured home park as defined and set forth in the County Subdivision Ordinance, to include without limitation: lot area, density and yard space requirements.

3. The replacement structure shall meet the current requirements of the County Health Department regulations pertaining to manufactured homes and manufactured home parks; current requirements of the County Fire Prevention Ordinance; and the current requirements of the County Minimum Housing Code.

4. The replacement structure shall be a Class A or Class B manufactured home and shall otherwise meet the current construction and other standards for manufactured homes established by applicable Federal, State, and local regulations.

5. In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

E. Map of Preexisting Nonconforming Manufactured Home Lot or Park. Every owner of land on which a preexisting nonconforming manufactured home lot or park is located shall file with the Planning and Inspections Department, a map or site plan of the land area of such lot or park showing the dimensions to scale of the area at the time of the zoning of the land on which the lot or park is located, showing the location and external dimensions to scale of each manufactured home existing therein at such time, and showing such other pertinent information as the Planning and Inspections Department and Coordinator require.

F. Zoning Permit Required. Replacement of a preexisting nonconforming manufactured home hereunder shall not be permitted unless the owner of such replacement has made application to the Coordinator for a zoning permit for such replacement, and the permit has been issued. The application shall describe the proposed replacement manufactured home by manufacturer's name, model and serial number, year of manufacture and dimensions and shall show the proposed manufactured home space for the replacement on a copy of the map of the manufactured home lot or park on file with the County Planning and Inspections Department. The Coordinator shall issue a zoning permit for the replacement only upon a determination that the replacement and its location meet the requirements for replacing a preexisting nonconforming manufactured home set forth above. The Coordinator may require any additional information reasonably necessary to make such determination and may deny a permit if such information is not submitted. No provision herein shall waive or release other requirements for a permit pertaining to the replacement or lot or park in which the manufactured home is to be located that may be set forth in this ordinance or other Federal, State, or local laws.

(Amd. 02-19-08)

## **ARTICLE XI LOT AND YARD REGULATIONS**

### **SECTION 1101. LOT REGULATION.**

Unless otherwise established in the County Subdivision Ordinance, the general lot regulations shall apply as herein set forth.

A. One Principal Structure Per Lot. Every principal structure hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one main residential building and its accessory buildings on one lot of record unless otherwise provided for in this ordinance and the County Subdivision Ordinance. Residential uses in the A1 Agricultural District that are considered accessory to the principal bona fide farming use are not limited in number when associated with the farm use as exempted by Section 109.

B. Street Access. No structure shall be erected on a lot, subject to regulation under the County Subdivision Ordinance, which does not abut a public street or approved private street (see County Subdivision Ordinance for private street provisions) for at least 20 feet, such frontage (abutting) to be continuous from the property line to the front yard building setback line. Those lots or tracts, not regulated by the County Subdivision Ordinance shall provide, at a minimum, proof of a 20-foot deeded access easement, which has been properly and legally recorded with the County Register of Deeds, to serve the said lot or tract.

C. Reduction of Lot Size Prohibited. No lot shall be reduced in area so that lot and/or yard areas below the minimum required under this ordinance shall result. Lots 50 feet or more in width may be treated as recorded lots less than the minimum requirement (subsection D below).

D. Recorded Lots Less Than Minimum Requirement. Where any lot of record on the effective date of this ordinance or amendment thereto for the zoning area in a district which allows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent in the RR, R15, R7.5, R6, R6A and R5 residential districts; or below the dimensional requirements of the RR Rural Residential District in the A1 Agricultural District.

E. Lots Without Community Water and/or Sewer. Any lot that is not served by public or community water and/or sewer, in addition to the regulations of the zoning district in which said lot is located, must be certified by the County Health Department to be large enough to meet all applicable regulations regarding water supply and/or sewage disposal prior to application for a zoning permit.

F. Building Lines on Irregularly Shaped Lots. The Coordinator shall determine locations of front, side, and rear building lines on irregularly shaped lots. In no case, shall a setback line be measured from any part of any tract that does not meet the minimum width requirement for the individual district as listed in Section 1104. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and location of buildings or groups of buildings on individual lots.

G. Corner Lots. Principal structures on corner lots in residential districts on which dwelling units are to front on each of the intersecting streets shall observe the front yard requirements on each of the intersecting streets if they are constructed and located within developments recorded after the effective date of this ordinance, or any amendment to said ordinance. With the exception of the R6A Residential district, principal structures on corner lots in residential districts that observe the front yard requirements of the two intersecting streets may reduce the required rear yard by 20 feet.

H. Lot Area Exception in Conservancy Districts. In the CD Conservancy District, the area may be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD District shall only be

used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable Federal, State, or local regulations.

*(Amd. 01-19-10)*

#### **SECTION 1102. YARD REGULATION.**

A. Projection Into Yard Space. Every part of a required yard shall be open from its lowest point (grade level) to the sky, unobstructed except for the ordinary projections of sills, belt courses, buttresses, cornices, ornamental features, sun decks, balconies, open porches and eaves; provided that none of the above projections shall project into a required yard more than four feet. Canopies, eaves and marquees may extend into a required yard in a commercial or industrial district provided that no more than ten percent of the square footage within the required yard is covered by such canopies, eaves and marquees, and provided further that supports for such canopies, eaves and marquees shall not be solid and shall not interfere with the free movement of traffic, the required off-street parking, and the sight view of adjacent properties.

Open fire escapes, outside stairways, open wheelchair ramps, the ordinary projections of chimneys and flues, swimming pools, flag poles, decorative fountains and other similar items may be erected in required yards when placed so as not to obstruct light and ventilation necessary for the structure. To minimize encroachment of wheelchair ramps into the required yard, turning platforms are encouraged.

B. Determination of Front Yard Setback. The front yard requirements of this ordinance shall not apply on lots where the average depth of existing front yards on developed lots, located within 100 feet on each side of a lot, within the same block and zoning district as such lot, is greater or lesser than the minimum required front lot depth. In such cases, the depth of the front yard on such lot shall not be less than the average front yard depth on such developed lots. This provision shall not require a structure to be set back from the street or road a greater distance than the distance set forth in this ordinance or the setback line observed by the closer of the two existing principal structures on immediately adjoining lots. In no case, however, shall any residential structure be placed closer than 50 feet from the centerline of a street on which it faces or within 40 feet from the centerline of a side street. The location of a residential structure with respect to the street line in any commercial or industrial district shall not be used as a factor in determining the required setback from the street line for any new structure to be erected in such districts.

*((Amd. 01-19-10))*

C. Fences and Walls. The setback requirements of this ordinance shall not apply to any retaining wall. Open fences and walls may be erected to any height. Solid fences and walls shall be limited to three feet in height when projecting into or enclosing a minimum front yard and shall be limited to seven feet in height when projecting into or enclosing a minimum side and/or rear yard. When a corner lot follows two front yard setbacks, as determined by the Coordinator, a solid fence or wall greater than three feet in height, but not exceeding seven feet in height, may not be erected within 20 feet of the right-of-way on the street deemed the secondary front yard by the Coordinator. The street on which the house is addressed is usually considered the primary street on which the house must follow the full front yard setback unless otherwise determined by the Coordinator. Exceptions to location criteria are as follows:

1. Fences or walls that are within or enclose the minimum side and/or rear yard of a subdivision lot which is situated on a peripheral boundary of a subdivision in which it is a part;

2. Rear yards on through lots may have a privacy fence erected up to the rear property line, as determined by a platted “no access easement” or up to 20 feet from that line in the absence of a “no access easement”;

3. Fences erected in conjunction with a buffer, as required by sub-section G, “Buffer Requirements” below, shall be set back a sufficient width from the property line to allow for the proper maintenance and upkeep of the vegetative buffer; and

4. When a principal structure is permitted closer than 25 feet to a public right-of-way line, the fence or wall will be permitted no closer to the road right-of-way than the permitted location of the principal structure.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10)*

D. Corner Visibility. In all districts, no fence, wall, shrubbery, sign or other obstruction to vision between the heights of three and 15 feet shall be permitted within 20 feet of the intersection of two streets.

E. Rear Yards on Through Lots. The depth of rear yards on through lots shall be at least equal to the minimum required front yards for the district in which it is located, and no accessory buildings shall be located in the rear yard on through lots.

F. No Other Building in Required Yard Space. No part of a yard or other open space required about any structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required under this ordinance for another structure. When two or more uses occupy the same building, sufficient off-street parking areas, yard widths, lot area, open space, etc., must be provided so that the dimensional requirements pertaining to each of the uses will be met in full.

G. Screening Buffer Requirements.

1. A solid buffer shall be installed:

a. When a non-residential use abuts a residentially zoned property along the side and/or rear property lines;

b. When any commercial off-street parking or loading space abuts a residential district along the side or rear property lines;

c. When any use permitted in a residential or agricultural district other than a single- or multi-family dwelling abuts a residential district along the side or rear property lines;

d. When any multi-family development of more than three residential units abuts a residential district or an existing single-family dwelling along the side or rear property lines; and

e. When any outside storage of materials, equipment or products is visible and/or abutting any residential district and/or public street.

2. “Governmental use” as defined herein and including public and private elementary, junior high/middle, and high schools, accredited by the State of North Carolina, and “religious worship activity” as defined herein shall be exempt from the buffer requirements of this ordinance.

3. For all uses classified under sub-section “e” above and regardless whether or not the use was existing at the time of the adoption of this ordinance, the property owner

shall provide and maintain a solid buffer within two calendar years of said use being subject to this ordinance in accordance with the standards of this Sub-section.

4. When required by this ordinance and/or the County Subdivision Ordinance, the following standards shall apply:

a. A vegetative buffer shall be a minimum of three feet in height at time of planting to reach a height of six feet within three calendar years;

b. Solid non-vegetative fencing shall have a minimum height of six feet;

c. Buffer vegetation shall be located between any fence and the common property line.

d. Chain link fencing shall not be permitted as a screening alternative, regardless of type of modifications made to the chain link fence.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 06-15-09; Amd. 01-19-10)*

H. Riparian Buffer. For purposes of protecting the aquatic and wildlife habitat and to ensure bank stabilization, the Cape Fear River, Little River, Lower Little River, Rockfish Creek, Little Rockfish Creek and South River shall be protected from development by means of riparian buffer. The riparian buffer shall consist of two zones, a combined width of 50 feet, as follows:

1. Zone One.

a. Zone One shall include the existing vegetated area that is undisturbed except for minimal encroachment for purposes of river or creek access, provided that residential developments shall have no more than one such access point. Where Zone One has been or is to be disturbed for purposes of utility installation, the area disturbed shall count as the access point.

b. The location of Zone One shall begin at the common property line with the river or creek, or at the top of the bank and where the top of the bank is not easily discernable Zone One shall begin at the root growth area closest to the surface water and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank or the root growth area closest to the surface water.

2. Zone Two.

a. Zone Two shall consist of a stable, vegetated area that is preferably left undisturbed; however, grading and re-vegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised.

b. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water.

Developments proposed and adjacent to the aforementioned rivers and creeks shall have the riparian buffer designated as “common area” with maintenance and upkeep by the owners’ association in the same manner as required for common areas in zero lot line developments – see Section 2402, County Subdivision Ordinance. Each zone shall be demarcated on the ground, shown on the preliminary plan and final plat, in addition to the declaration of covenants addressing the purpose of the riparian buffer zones and maintenance requirements.

The provisions of this sub-section are not intended to supersede or minimize the buffer areas required for high density developments – see Section 31A-23, County Water Supply

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

Watershed Management and Protection Ordinance. In addition, lots with single-family dwelling units consisting of two acres or less in area that pre-exist the adoption date of this amendment (June 18, 2012) shall be exempt from these riparian buffer provisions.  
(Amd. 02-19-08; Amd. 06-18-12)

I. Building Height. Multiple family dwellings and office, commercial and industrial buildings shall not be limited to height except that for each one foot of height greater than 35 feet, the side and rear yard setbacks shall be increased by one foot.

J. Side Yard Exception. In the C1(P) Planned Local Business District, C2(P) Service and Retail District and C(P) Planned Commercial District, where the lot has a width of 150 feet or less at the front yard setback line, the minimum side yard width requirements shall apply only to one side if the opposite side is also zoned for commercial or industrial uses.  
(Amd. 02-19-08)

K. Rear Yard Exception for Manufactured Homes in an R6A Residential District. In an R6A Residential District where a single manufactured home, as herein defined, is to be placed on an individual lot, and no other principal structure exists, the rear yard requirement may be reduced to five feet as long as such manufactured home shall be at least 15 feet from any other manufactured home located on an adjoining lot to the rear of the subject lot.

L. Averasboro Battlefield Viewshed Frontage. A front yard setback of 70 feet from the right-of-way, regardless of zoning classification, shall be required for all lots fronting NC Highway 82 (Burnett Road), which is a designated "Viewshed" and located within the area designated by the National Register of Historic Places as the Averasboro Battlefield.

M. Outdoor Lighting. The purpose of this section is to reduce glare, to reduce light trespass, to decrease the expense of lighting, to decrease light pollution, and to improve the aesthetics of the County while still providing adequate nighttime safety and security. The following standards are applicable to all properties:

1. All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces;

2. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property and any light on a pole, stand, or mounted on a building must have a shield, and adjustable reflector and non-protruding diffuser;

3. Any facilities, which may require floodlighting, may not arrange the light in such a way that it will shine toward roadways, onto adjacent residential property or residentially zoned property or into the night sky;

4. Any interior lighted signs may not be lit at night when any face of the sign is removed or damaged in such a way that the light may distract pedestrians or drivers or become a nuisance to homeowners;

5. Any light fixture must be placed in such a manner that no light-emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at ground level.

N. Landscaping. The purpose and intent of this ordinance is to enhance the community appearance and improve air quality within the County. All requirements as set forth below shall be applied to non-residential and mixed-use developments requiring site plan approval prior to zoning permit application. For existing non-residential developments, the landscaping provisions of this Section shall apply only to the extent of any change in the building footprint. The detailed site plan, when submitted for site plan approval, shall include the following:  
(Amd. 11-21-05)



1. Streetscape. Landscaping shall be installed for all non-residential and mixed-use developments abutting a public street as follows:

a. Minimum of one large shade tree or two small ornamental trees per 50 linear feet of street frontage. Calculation for the required number of trees shall be the total length of street frontage divided by 50.

b. Trees shall be planted within the front yard setback, not within the right-of-way, and may be clustered.

c. The size of the trees to be planted shall be a minimum of two-inch caliper for large shade trees and a minimum of six feet in height for small ornamental trees as specified by the latest edition of *American Standard for Nursery Stock* published by the American Association of Nurserymen.

d. *Reserved for future use.*

e. Healthy existing trees may be used to satisfy these requirements.

2. Yard Space. Landscaping shall be installed for all non-residential and mixed-use development building areas where the lot is adjacent to a public street, regardless of whether or not access to the public street is permitted, as follows:

a. Required plant materials: one ornamental tree for every 50 linear feet of building length and/or width and two shrubs for every ten linear feet of building length and/or width.

b. The required plant materials must be located between the structure and the required setback line, excluding the parking areas addressed below.

c. The development must have a yard space sufficient in size to accommodate the required plantings and to allow room for flexibility in the landscape design.

3. Parking Areas. Paved parking areas consisting of 20 or more parking spaces shall be landscaped as follows:

a. Required plant materials: One large shade tree or two ornamental shade trees for every 20 spaces.

b. Trees shall be planted in such a manner to be protected from motor vehicles.

4. Maintenance.

a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs.

b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.

(Amd. 02-19-08)

O. Retention/Detention Basins (Ponds). When retention/detention basins are required by the State or local ordinances for stormwater, watershed or other purposes, the basins shall be secured with a minimum four-foot-high fence with a lockable gate.

(Amd. 01-19-10)

## **SECTION 1103. SPECIAL DEVELOPMENTS.**

Special developments governed elsewhere in this ordinance and those governed by the County Subdivision Ordinance may be exempt from the lot and yard requirements of this ordinance, provided the development conforms to the special provisions of this ordinance and the County Subdivision Ordinance and the overall dwelling unit density is maintained for the district in which it is located except where specifically exempted elsewhere. This section shall include, but not be limited to Article V, Conditional Zoning District; Article VI, Mixed Use-Conditional Zoning District and Article VIII, Density Development-Conditional Zoning District; contained within this ordinance, and Zero Lot Line Developments, Unit Ownership Developments, and Manufactured Home Parks, which are regulated by the County Subdivision Ordinance.

*(Amd. 02-19-08; Amd. 04-18-11)*

**SECTION 1104. DISTRICT DIMENSIONAL PROVISIONS.**

The provisions on the following pages shall be complied with except where specifically exempted by Section 1103. This section is in “chart” format and begins on the next page.

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**SECTION 1104. DISTRICT DIMENSIONAL PROVISIONS.<sup>1</sup>**

Except for the special provisions as previously noted in this article and any special provisions provided for elsewhere within this ordinance, the following district dimensional requirements shall be complied with:

DENSITY <sup>2</sup> (SQ FT PER DWELLING)						MINIMUM YARD SETBACK REGULATIONS <sup>2</sup>				
DISTRICT	MINIMUM LOT SIZE (square feet unless otherwise stated)	UNIT (DU) FOR CONDOS & GROUP DEVELOPMENTS			WIDTH (in feet)	FRONT <sup>5</sup> YARD	SIDE YARD		REAR YARD	
		1 <sup>st</sup> DU	2 <sup>nd</sup> , 3 <sup>rd</sup> , & 4 <sup>th</sup> DUs	5 + DUs		(measured from R/W line)	(1 story)	(2 story)	(each add greater than 2 stories)	(in feet)
A1 <sup>3</sup>	2 acres	2 acres	2 acres	2 acres	100	50	20	25	25ft/story	50
A1A <sup>4</sup>	1 acre	1 acre	1 acre	1 acre	100	50	20	25	25ft/story	50
R40	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35
R40A	40,000	40,000	40,000	40,000	100	30	15	15	10ft/story	35
R30	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35
R30A	30,000	30,000	30,000	30,000	100	30	15	15	10ft/story	35
R20	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
R20A	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
RR	20,000	20,000	20,000	20,000	100	30	15	15	10ft/story	35
R15	15,000	15,000	15,000	15,000	75	30	10	15	10ft/story	35
R7.5	7,500	7,500	7,500	7,500	75	30	10	15	8ft/story	35
R6	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	30
R6A <sup>2</sup>	6,000	6,000	5,000	4,000	60	25	10	12	6ft/story	15 <sup>6</sup>
R5A	5,000	3,000	3,000	3,000	60	25	10	12	4ft/story	30
R5	5,000	5,000	3,000	1,500	60	25	10	10	4ft/story	30

<sup>1</sup> All signs are regulated by Article XIII.

<sup>2</sup> Exceptions: See Section 1103 for special exceptions to this chart.

<sup>3</sup> Minimum lot size for non-residential uses is one acre.

<sup>4</sup> Maximum district size for rezoning request is 10 acres.

<sup>5</sup> Exception: Averagesboro Battlefield Viewshed Frontage (Section 1102 L)

<sup>6</sup> See Section 1102 K for Rear Yard Exception for Manufactured Homes in the R6A District.

(Amd. 3-21-16; Amd. 11-20-06)

**(Section 1104, District Dimensional Provisions – Continued)<sup>1</sup>**

**MINIMUM YARD SETBACK REGULATIONS<sup>2</sup>**

<u>DISTRICT</u>	<u>FRONT YARD</u> (feet)		<u>SIDE YARD</u> (feet)	<u>REAR YARD</u> (feet)
	Measured from R/W Line	Measured from Street Centerline		
CD	50	80	50	50
O&I(P)	35	65	15	20
C1(P)	45	75	15	20
C2(P)	50	80	30	30
C(P)	50	80	30	30
M1(P)	50	80	30	30
M(P)	100	130	50	50

<sup>1</sup> Exception: See Section 1103 for special exceptions to this chart.

<sup>2</sup> All signs are regulated by Article XIII.

(Amd. 02-19-08)

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**ARTICLE XII**  
**OFF-STREET PARKING AND LOADING**

**SECTION 1201. GENERAL PROVISIONS.**

All uses of land, buildings, or structures shall provide for adequate off-street parking and loading space to meet at least the minimum standards in accordance with the provisions of this article.

A. Plan Approval. Each application for a zoning permit, Conditional Zoning district, Special Use Permit, or site plan approval shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Coordinator to determine whether or not the requirements of this article are met.

B. Certificate of Occupancy. The Certificate of Occupancy for the use of any building, structure or land where off-street parking space or loading space is required shall be withheld by the Coordinator until the provisions of this article are fully complied with. If at any time such compliance ceases, any Certificate of Occupancy previously issued for the use of the property shall immediately become void, and further use of the premises shall cease until the property is brought into compliance with this article.

C. Permanency. The off-street parking and loading spaces required by this article shall be permanent spaces and shall not be used for any other purpose unless other spaces are provided which will fully meet the requirements of this ordinance.

D. Permissive Parking and Loading Facilities. Off-street parking or loading facilities, which serve any existing non-residential use of land or buildings, are permitted in any commercial or industrial district provided that all regulations herein governing the location, design and operation of such facilities are adhered to and provided further that whenever a parking facility serving a non-residential use abuts a residential district, a vegetative buffer at least six feet in height shall be established between the parking facility and the residential district.

E. Increased Intensity of Existing Use. When the intensity of use of any building or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units specified herein for the computation of required parking and loading facilities, parking and loading facilities shall be provided for such increase in intensity of use.

F. Change of Existing Use. Whenever the existing use of a structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the structure was erected prior to the effective date of this ordinance, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use shall exceed those for the existing use.

*(Amd. 02-19-08; Amd. 04-18-11)*

**SECTION 1202. OFF-STREET PARKING.**

A. Minimum Off-Street Parking Requirements. Off-street parking spaces shall be provided and permanently maintained by the owners or occupants of the following types of property uses on the basis indicated.

<i><b>Uses</b></i>	<i><b>Required Parking</b></i>
All dwelling units	Two spaces for each dwelling unit except one and one-half spaces for each dwelling unit in a multi-family complex located in R6, R5A, R5, and mixed-use developments.

Art galleries, libraries, museums	One space for each 400 square feet of net floor area
Banks	One space for each 200 square feet of net floor area, plus one space for each two employees
Commercial amusement	One space for each four persons in design capacity
Detention facilities	One space for every three beds, up to 500 beds; one space for every five beds above 500 beds
Funeral homes	One space for each four seats in chapel
General, professional, governmental offices	One space for each 300 square feet of net floor area
Hospitals	One space for each two beds intended for patient use, plus one space for each employee on the largest shift
Lodges, fraternal, and social organizations	One space for each four persons in design capacity
Manufacturing, processing, fabrication, assembly, construction, contracting, building trades	One space for each vehicle used directly in the conduct of the use, plus two additional spaces for each three employees on the largest shift
Manufactured home and travel trailer sales lot	One space for each employee and one space for each 3,000 square feet of display area
Medical clinics, doctors' and dentists' offices	Five spaces for each professional practicing on the premises
Motel, hotel, tourist home	One space for each room or unit to be rented; plus one space for each three employees; plus one space for each 100 square feet of floor area utilized for meeting rooms
Motor vehicle gas stations	Ten parking spaces
Motor vehicle repair	One space for each 200 square feet of net floor and/or sales garage area
Nursery, kindergarten, elementary & junior high/middle schools	One space for each employee, plus ten additional spaces



Nursing homes, convalescent and retirement homes	One space for each four beds intended for resident use, plus one parking space for each employee on the largest shift
Religious worship	One space for each five seats
Restaurants	One space for each four inside seats plus outside serving spaces
Retail stores, service shops, food & beverage establishments including planned shopping centers	One space for each 200 square feet of net floor area
Rooming or boarding house	One space for each bedroom
Senior high schools	Four spaces for each classroom and administrative office
Veterinary clinics	Four spaces for each veterinarian
Vocational, business, post secondary, avocational and trade schools	One space for each 300 square feet of gross floor area
Wholesale establishments	One space for each 900 square feet of gross floor area

*(Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)*

B. Computation. When determination of the number of off-street parking spaces required by this ordinance result in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

C. Size. All required off-street parking spaces shall be at least nine feet in width and at least 20 feet in length measured at right angles to the axis of the vehicle exclusive of access drives, aisles or ramps. Such space shall have a vertical clearance of at least six feet, six inches. For parallel parking, the length of the parking space shall be increased to 23 feet. Compact parking spaces, measuring seven and one-half feet wide and 16 feet in length, provided that the compact spaces do not exceed more than 25 percent of the total required parking.

D. Design. Off-street parking spaces, drive areas and entrances to any structure shall be designed and constructed to the standards of the N.C. Building Code, or other applicable Federal, State or local regulation.

E. Access. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic movement. All commercial and industrial off-street parking areas and all off-street parking lots for residential use where three or more spaces are required shall be so arranged that egress from the parking space is by forward motion of the vehicle.

F. Lighting. Any lighting used to illuminate off-street parking areas shall be subject to the same standards as listed in Section 1102.M.

G. Public Area. No portion of any street right-of-way or public parking facility shall be considered as fulfilling or partially fulfilling area requirements for off-street parking space required by the provisions of this ordinance.

H. Combination and Shared Parking. The required parking space for any number of separate uses may be combined in one lot as long as the minimum number of spaces for each separate use is provided, except that the required space assigned to one use within a shopping center may be assigned to another use provided that the hours of operation for each use do not coincide or overlap and one-half of the parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

I. Remote Parking Space. If the off-street parking space required by this ordinance for non-residential uses cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main pedestrian entrance to such principal use, provided such land is in the same ownership, by deed or long term, recorded lease, and that such land is zoned to allow the non-residential use for which the remote parking is to serve.

In such cases, the applicant for a permit for the principal use shall submit with his application an instrument duly executed, acknowledged and recorded with the County Register of Deeds that subjects said land to parking use in connection with the principal use.

J. Existing Parking Facilities. Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same lot as the use served shall not hereafter be reduced below the minimum requirements of this article.

K. Residential Parking Limitation. Where parking for more than five cars is permitted or required in residential districts, the lot may be used only for parking and not for any type of loading, sales, repair work, dismantling, servicing or long-term storage, either of merchandise or vehicles.

L. Handicap Parking. Handicap parking shall be provided in accordance with the standards of the North Carolina Building Code and any other applicable Federal and/or State regulations.  
(Amd. 01-19-10; Amd. 04-18-11)

**SECTION 1203. OFF-STREET LOADING.**

Off-street loading spaces accessory to uses permitted in any district shall be provided in accordance with the following regulations. The Coordinator shall determine the sufficiency of loading spaces permitted or required by this ordinance.

A. Minimum Off-Street Loading Requirements. Off-street loading spaces shall be provided and permanently maintained by the owners or occupants of the following types of land uses on the basis indicated:

<i>Uses</i>	<i>Required Space(s)</i>
Commercial operations with a gross floor area of less than 20,000 square feet and all wholesale, manufacturing and light industrial operations with a gross floor area of less than 10,000 square feet	One loading space
Retail operations, (including restaurant and dining facilities within hotels and office buildings) with a total usable floor area of 20,000 square feet or more	One loading space for every 20,000 square feet of floor area requiring not more than seven spaces

Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes	One loading space for every 100,000 square feet of floor area
Industrial and wholesale operations with a gross floor area of 10,000 square feet or over and as follows:	Minimum number of loading spaces required:
10,000 to 40,000 square feet	One loading space
Above 40,000 to 100,000 square feet	Two loading spaces
Above 100,000 to 160,000 square feet	Three loading spaces
Above 160,000 to 240,000 square feet	Four loading spaces
Above 240,000 to 320,000 square feet	Five loading spaces
Above 320,000 to 400,000 square feet	Six loading spaces
Each 90,000 square feet above 400,000 square feet	One additional loading space

B. Location. One or more loading berths or other space shall be provided for standing, loading and unloading operations either inside or outside a building and on the same or adjoining premises with every structure erected after the enactment of this ordinance.

C. Screening. All motor vehicle loading spaces abutting any residential district shall be completely screened.

D. Size. A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and 14 feet overhead clearance. A loading berth shall be sufficient to allow normal loading operations of a kind and magnitude appropriate to the use served.

E. Access. Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley, without hindering the movement of vehicles over a street or alley, and of pedestrians over a sidewalk.

F. Utilization. Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking spaces or access drives or aisles.

**ARTICLE XIII**  
**SIGN REGULATIONS**

**SECTION 1301 PURPOSE**

The purpose of these regulations is to minimize any detrimental effects of signs on adjacent land uses and to ensure that permitted signs do not become a public nuisance or hazard. All signs erected, altered, relocated or maintained shall be in accordance with the provisions of this article.

**SECTION 1302 SIGN DEFINITIONS**

For purposes of interpreting this article, the following words and terms are herein defined:

A. Attached Sign. A sign connected to or painted on a wall and including signs connected to or otherwise displayed on or through a façade window. The following are not attached signs: wall identification signs and commemorative plaques not more than two square feet in area, memorial cornerstones or tablets providing information on building erection or commemorating a person or event, or unit identification signs.

B. Billboard (Off-premises Sign). A sign which directs attention to a business, commodity, service, entertainment or other message not conducted, sold or offered on the premises where such sign is located.

C. Business Sign. A sign that directs attention to a business, industry, profession, commodity, service or entertainment sold, produced or offered upon the premises where such sign is located or to which it is attached.

D. Flashing Sign. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this ordinance, any moving, illuminated sign shall be considered a “flashing sign”; such signs shall not be deemed to include time and temperature signs, mechanical/digital signs or public message displays using electronic switching, provided the message remains displayed for a minimum of eight seconds.

E. Freestanding Sign. Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains. For purposes of this article, this definition shall not include “billboard” which is defined above.

F. Governmental Sign. Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

G. Ground Sign. A freestanding sign suspended or supported by one or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.

H. Identification Sign (Directory). A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises, the profession of the occupant, the name of the building on which the sign is displayed, or the name of the owners or developers. A directory sign is an identification sign with information on multiple occupants.

I. Informational Sign. Any on-premises sign containing no other commercial message, copy, announcement or decoration other than instruction or direction to the public. Such signs include, but are not limited to, the following: identifying rest rooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction and prices.

J. Mechanical/Digital Sign. Any sign with changeable copy and the message changes in increments of at least eight seconds shall be considered as a “sign” under this article.

K. Obscene Matter. Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

L. Pole Sign. A freestanding sign that is mounted on a pole or other support.

M. Portable Sign. Any sign not permanently attached to the ground or to a building or other structure and which, because of its relatively light weight, is meant to be moved from place to place. Such sign may or may not have changeable copy, may or may not be wired for lighting and may or may not have wheels. “Sandwich boards” are considered as portable signs.

N. Public Information Sign. A sign usually erected on public property or right-of-way and maintained by a public agency that provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, city limit signs, street name signs and directional signs.

O. Roof Sign. A sign displayed above the eaves of a building.

P. Sign. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, trade names or trademarks by which anything is made known, such as the designation of any individual, business, commodity, product, service or entertainment, which are visible and used to attract attention. The word “sign” does not include official notices posted by any public officer in performance of a public duty, or by any person in giving legal notice; nor does it include directional, warning, traffic or informational structures required by or authorized by law or by Federal, State, or local authority.

Q. Sign Area. The area of a sign mounted on a board or within a frame or box shall be the area of the board, frame or box. The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area. Sign area does not include support structures unless the coloration, lighting, etc. are designed to attract attention.

R. Sign Height. The vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within this ordinance. In the case of a sign not adjoining a street or highway, the “height of a sign” is the vertical distance of the average elevation of the ground immediately adjoining the sign to the level of the highest point of the sign.

*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)*

### **SECTION 1303. SIGNS EXEMPT FROM REGULATION.**

The following signs are exempt from regulation under this ordinance except that any lighted sign shall require an electrical permit:

A. Governmental signs;

B. Lights and decorations with no commercial message temporarily displayed on traditionally accepted civic, patriotic or religious holidays;

C. Signs located on the interior of buildings, courts, lobbies, stadiums, or other structures which are not intended to be seen from the exterior of said buildings or structures;

D. Signs affixed to vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;

E. Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles;

F. Signs not legible from a public or private street;

G. Flags of the governmental jurisdictions of the United States of America or the State of North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the County Board of Commissioners, subject to U.S. Congressional protocol; and

H. Public information signs.

*(Amd. 02-19-08)*

### **SECTION 1304. SIGNS PERMITTED IN ANY DISTRICT.**

The following types of signs are permitted in all zoning districts subject to any specific requirement or prohibition provided herein for any particular zoning district.

A. Temporary Signs. For the purpose of advertising a specific property, individual or event, signs not exceeding eight square feet in area are permitted provided the temporary signs are setback a minimum of five feet from a property line, not located within any public right-of-way, do not constitute a hazard to public safety, do not contain obscene matter and are removed within seven calendar days of cessation of the temporary occasion the sign is purporting to advertise. This provision shall not be construed to authorize the posting of signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by any other Federal, State or local regulation.

B. Temporary Signs Advertising Real Estate Developments. For the purpose of advertising real estate developments for which a plat has been officially recorded, one sign is permitted at each main entrance to the development named on the sign. Such signs shall not to exceed 32 square feet in area.

C. Traffic Control Signs. Signs that only regulate traffic on private property are permitted.

D. Special Informational Signs. For the purpose of giving directions and information, onsite signs pertaining to special uses where not otherwise permitted, and off-premises signs may be approved by the Board of Adjustment subject to a Special Use Permit specifying the size, location, lighting, design and display in accordance with Section 1606. Such signs shall be limited to those which are necessary to inform the public as to location and information concerning facilities, institutions, business districts, fraternal orders and service clubs, or such other activity as the board may judge to be beneficial to the total community.

E. Special entrance signs. A permanent sign is permitted as an integral part of a gate or entrance structure which identifies a subdivision, group development or other special development approved under the provisions of this ordinance or the County Subdivision Ordinance, estate, farm, or other entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet. Under this provision, if such a special entrance sign is utilized no other main entrance identification sign is permitted.

*(Amd. 04-18-11)*

#### **SECTION 1305. GENERAL SITE AND SIGN SPECIFICATIONS.**

A. Zoning Permit Required. No sign requiring a permit shall hereafter be erected or attached to, suspended from or supported on a structure nor shall any existing sign be enlarged, replaced or relocated until a zoning permit has been issued by the Coordinator.

B. Measurement of Sign Area. The area of a sign mounted on a board or within a frame box shall be the area of the board, frame or box. The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area. Signs that employ moving or extending parts shall be measured when moved or extended to form the largest possible silhouette. The total sign area for a double-faced or "V" type sign shall be measured on the largest face of the sign; however, advertising matter may be posted on both sides of such permitted signs, provided that any "V" type sign with a "V" angle of greater than 45 degrees shall be subject to measurement of sign area on both sides. Sign area does not include support structures unless the coloration, lighting, etc. are designed to attract attention.

C. Freestanding Sign Location – All Districts (Excluding Billboards). Freestanding signs shall be set back from the existing road right-of-way (normally the front property line) or proposed future road right-of-way, whichever is the greater distance, according to the tables below. Freestanding signs shall be set back from all other property lines a minimum distance of five feet, except that development signs may be located on a median of a public right-of-way provided that the NC Department of Transportation permits the sign and freestanding signs located on a median of a private street shall be located no closer than 20 feet of the street intersection. In no instance



shall a sign between the heights of three and 15 feet be permitted within 20 feet of the right-of-way line at the intersection of two streets. Freestanding signs may be placed on the same or separate support structures.

1. Ground Signs. The following table establishes the minimum setback requirements for ground signs provided that all other requirements of this article are complied with.

Sign Height	Minimum Setback from Right-of-way Line
0-15 feet	5 feet
Greater than 15 feet and up to 30 feet	10 feet
Greater than 30 feet	10 feet, plus 1 foot for each foot of height exceeding 30 feet

2. Pole Signs. Pole signs, in addition to all other requirements of this article, shall be setback a minimum of five feet from the existing or proposed right-of-way line provided that no portion of the sign projects any closer than two feet, measured in horizontal distance, from the proposed or existing right-of-way line. Also, pole signs shall maintain a minimum clearance of nine feet over any pedestrian areas and 14 feet over any vehicular paths. Pole signs shall not exceed a maximum sign height of 30 feet unless specifically otherwise allowed within this article. Pole signs more than 100 feet in height shall be set back from any property line a distance of one foot for each foot of height above ground level when otherwise allowed within this article.

D. Maintenance and Appearance of Signs. All signs together with braces, guys and supports shall at all times be maintained in a safe condition and kept in good repair, free from excessive rust, corrosion, peeling paint or other surface deterioration.

E. Signs Facing Residential Districts. Illuminated signs shall be so placed as not to be a nuisance to residents of neighboring residential property.

F. On Site Interference. The location and structural design of freestanding signs shall be such as to not interfere with the safe and efficient use of off-street parking and loading areas including aisle ways and access driveways.

G. Unsafe and Unlawful Signs. If the Coordinator finds that any sign is unsafe or is a menace to the public or has been constructed, erected or is being maintained in violation of this ordinance, the Coordinator shall give written notice of such violation to the owner of the sign or the owner of the property where the sign is located, or both. If the owner of the sign, or the property owner, fails to remove or alter the structure so as to comply with the required standards within 30 days after receipt of said notice, such sign may be removed, or altered to comply, by the Coordinator at the expense of the owner of the sign or the property owner. The Coordinator may cause any sign or other advertising structure that is an immediate peril to persons or property to be promptly removed by the sign owner or the property owner.

H. Cessation of Purpose and Removal. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land or structure upon which such sign may be found. Such sign shall be removed within 30 days after written notification from the Coordinator except that temporary activities sign posting shall be removed by the permittee within seven days following the date of termination of such events. Upon failure to comply with any notice within the time specified, the Coordinator is authorized to cause removal of such sign, and the owner of the sign shall pay expenses incurred.

I. Signs Permitted in Conjunction with Nonconforming Uses. Any nonconforming use in any district may maintain such business signs as would be allowed for such use in the most restrictive district in which the use would be permitted, or such signs as are existing at the time the use becomes nonconforming, whichever is the most restrictive with regards to sign size.

(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

## **SECTION 1306. SIGNS PERMITTED BY DISTRICT.**

In addition to the aforementioned signs, the following are also permitted:

### **A. Residential, Agricultural, Mixed Use Developments and Conservancy Districts.**

1. Dwelling Identification Sign. One identification sign not exceeding two square feet in area is permitted for each residential dwelling unit. For one and two family dwelling units, identification signs shall be at least five feet from any street or property line. For multi-family dwelling units, identification signs shall be mounted flat to the main wall of the building. Identification signs may be illuminated but non-flashing and motionless.

2. Development Signs. A permanent sign is permitted as an integral part of an entrance structure which identifies a subdivision, group development, estate, farm or other entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet in area. Such signs may be lighted, but non-flashing and motionless, and located according to the criteria in Section 1305.

3. Agricultural Products Signs. In the zoning districts that allow agriculture or rural farm use, signs advertising agricultural products produced on the premises are permitted, provided there are no more than two such signs, each of which shall not exceed 12 square feet in area. In any instance where the products sold are seasonal or temporary, such signs shall be removed within 30 days of cessation of the activity advertised. This section shall not apply to any property exempt under the bona fide farms provisions of Section 109.

4. Institutional, Commercial and Industrial Signs Located in Agricultural, Residential, Mixed Use or Planned Neighborhood Developments and Conservancy Districts. Any institutional, commercial or industrial use, which is a Permitted or Special or an approved use allowed in a Conditional Zoning district in an agricultural, residential or conservancy district, may erect and maintain signs as follows:

a. One freestanding sign not to exceed 100 square feet in area shall be permitted. If more than one principal use is conducted on the same site, or in the same building, each additional principal use shall be permitted one freestanding sign not to exceed 50 square feet in area.

b. Freestanding signs shall be located in accordance with the criteria found in Section 1305 of this article.

c. Attached signs for all principal uses on the site shall not exceed 50 square feet in area, except where the non-residential use is located within an approved Mixed Use or Planned Neighborhood development. For non-residential uses within Mixed Use or Planned Neighborhood developments, attached signage is allowed provided the attached signs do not exceed two square feet in area for each front foot of structure the occupant occupies. In addition, the attached signs may be placed on any side of the building. If there is more than one principal use, the property owner will determine the allocation of attached sign area. In the event a shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square footage of the attached signs do not exceed two square feet in area for each front foot of the structure that the occupant occupies.

### **B. Professional, Commercial and Industrial Districts.**

1. O&I(P) Planned Office and Institutional District. Signs in the O&I(P) District shall be regulated as follows:

a. One freestanding sign not to exceed 50 square feet in area will be allowed per building. Freestanding signs shall be located in accordance with the criteria found in Section 1305 of this article.

b. Attached signage not exceeding two square feet in area for each front foot of structure the occupant occupies is allowed. Attached signs may be placed on any side of the building.

2. C1(P) Planned Local Business District. Signs in the C1(P) District shall be regulated as follows:

a. One freestanding sign not exceeding 100 square feet in area is allowed for sites with a maximum of five occupants. Sites with more than five occupants may have an additional 10 square feet maximum area for each occupant over five, with a total maximum freestanding sign area not to exceed 200 square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 1305 of this article.

b. Attached signage is allowed. Attached signs shall not exceed two square feet in area for each front foot of structure the occupant occupies. Attached signs may be placed on any side of the building.

3. C2(P) Planned Retail and Service District and C(P) Planned Commercial District. Except for billboards (off-premises) signs which are regulated by Section 1307, signs in the C2(P) and C(P) District shall be regulated as follows:

a. Sites with no more than two occupants may have one freestanding sign. This sign shall have a maximum size of 100 square feet in area. Sites with more than two occupants but less than ten occupants may have two freestanding signs. Each sign shall have a maximum size of 100 square feet in area. Sites with more than ten occupants may have two freestanding signs, each with a maximum size of 100 square feet in area; or one freestanding sign with a maximum size of 200 square feet in area. Sites with more than ten occupants may have an additional ten square feet of freestanding sign area for each occupant over ten, with a total maximum freestanding sign area not to exceed 400 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Sites approved as a zero lot line development such as a shopping center, where the site has one primary lot with one or more outlots, shall constitute one integral development for purposes of this sub-section. Freestanding signs shall be located in accordance with the criteria found in Section 1305 of this article.

b. Attached signage is allowed, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

c. Detached business signs with no height limitation are allowed when located within 1,500 feet of an interstate (I-95) and when said signs are in excess of 100 feet in height these signs shall not be limited in area when located within 1,500 feet of an interstate (I-95) exit ramp, measured at the ramp's outer intersection with a state road (NC or SR).

4. M1(P) Planned Light Industrial District. Signs located in this district shall follow the same dimensional criteria as for signs being located in the C(P) Planned Commercial District.

5. M(P) Planned Industrial District. Except for billboards (off-premises signs) which are regulated by Section 1307, signs in the M(P) District shall be regulated as follows:

a. One freestanding sign is allowed at each main entrance to the site. The total entrance signage shall not exceed a maximum sign area of 500 square feet with each individual entrance sign not exceeding a maximum sign area of 300 square feet. On corner lots, one

additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 1305.

b. Attached signage is allowed, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

*(Amd. 11-20-06; Amd. 01-19-10; Amd. 04-18-11)*

#### **SECTION 1307 BILLBOARDS (OFF-PREMISES SIGNS)**

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

##### **A. General Provisions.**

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares, except that billboards shall be prohibited within 1,000 feet of either side of the right-of-way of the following:

a. US Highway 301 (South Eastern Boulevard/Gillespie Street) from NC Highway 87 (Martin Luther King Jr Freeway) south to SR 2286 (Seven Mountain Drive); and

b. *Reserved for future use.*

2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;

3. Billboards shall not exceed a sign height of 35 feet;

4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) Planned Commercial District, upon approval of a Special Use Permit (Section 1606), and M(P) Planned Industrial District, upon approval of the site plan (Article XIV) as a permitted use, provided that the dimensional criteria outlined below is complied with;

5. All Federal, State, and other local regulations shall be complied with and

6. Billboards are exempt from the landscaping and buffering provisions of this ordinance.

##### **B. Dimensional Criteria by District.**

1. C(P) Planned Commercial Districts. Billboards constructed and located in this zoning district shall have a maximum sign area of 500 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from any property line not a right-of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

2. M(P) Planned Industrial District. Billboards constructed and located in this zoning district shall have a maximum sign area of 700 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from a property line, not a of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

*(Amd. 02-19-08; Amd. 01-19-10; Amd. 04-22-14)*

#### **SECTION 1308. SIGNS PROHIBITED.**

Erection or maintenance of signs having any of the following characteristics is prohibited:

A. Signs Not to Constitute Traffic Hazards. No sign or advertising structure shall be erected or maintained at the intersection of any street or road so as to obstruct free and clear vision; or at any location where, by reason of the position, illumination, shape or color, it may impair, obstruct the view or be confused with any authorized traffic sign, signal or device; or that makes use of the words “stop,” “look,” “drive-in,” “danger” or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. In any case, signs shall be prohibited within 20 feet of a street intersection measured to the intersection of the two nearest street lines.

B. Signs Erected on Public Streets. No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend over or into any public street, provided that this section shall not apply to public signs necessary in the performance of a governmental function or required to be posted by law.

C. Obstruction of Ingress or Egress of Building. No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.

D. Obscene Matter Prohibited. No sign shall be erected or maintained which bears or contains statements, words or pictures of an obscene character.

E. Signs on Private Property; Consent Required. No sign may be erected by any person on the private property of another person without first obtaining the verbal or written consent of such owner.

F. Flashing Signs.

## **ARTICLE XIV PLANNED DISTRICTS**

### **SECTION 1401. GENERAL OBJECTIVES.**

This article recognizes that through ingenuity, imagination and quality design, community development can be improved. All planned zoning districts shall be subject to site plan review and approval prior to application for any permits. The careful review of development plans by the Planning and Inspections Staff is a process that will:

A. Permit creative approaches to the development of land, reflecting changes in the technology of land development;

B. Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower development costs;

C. Provide and ensure an environment of stable character compatible with surrounding land uses;

D. Accomplish a more desirable environment than would otherwise be possible; and

E. Enhance the appearance of the community.

### **SECTION 1402. DETAILED SITE PLAN SPECIFICATIONS.**

In any planned district, permits shall not be issued by the Coordinator except in conformance with a detailed plan submitted to and approved by the Planning and Inspections Staff. Plans submitted for approval shall be in the number as required by the Director drawn to an engineering scale of not less than one-inch equals 200 feet, and shall show all information necessary for proper evaluation of the plan, including:

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A. The dimensions and location of the property, all existing and proposed structures, including any existing and/or proposed freestanding signs, and all existing and proposed right(s)-of-way;

B. The parking and general circulation plan, including entrances, exits and pedestrian ways;

C. The service area, including off-street loading facilities, service drives and dimensions thereof and proposed uses of all structures;

D. The proposed location and material of fences, walls, buffers, and landscaping; and

E. The name of the developer, the date, the scale, the north arrow, Parcel Identification Number, general vicinity sketch map, and the person or firm preparing the plan.

*(Amd. 02-19-08)*

#### **SECTION 1403. SITE PLAN REVIEW.**

Plans for developments shall be submitted to the Planning and Inspections Staff in accordance with the schedule established by the Planning Board. The Planning and Inspections Staff shall ensure the plan is in compliance with this ordinance, the Subdivision Ordinance, and the Water Supply Watershed Management and Protection Ordinance, if applicable.

The burden shall be on the developer to show that their plans are in the best interests of the community and the users of the proposed developments. Site planning of the proposed development shall provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development. The development plan shall show, and careful review shall be given to, the following information:

A. Proposed land uses, the location of various land uses, their types and densities;

B. Proposed circulation pattern for vehicles and pedestrians, including providing for the interconnectivity of drives and parking areas by means of lateral access;

C. Proposed parks and other common open space areas, proposed means of dedication of any common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space;

D. Delineation of the units or phases to be constructed in progression;

E. Relation to land uses in surrounding areas and to the general development plan;

F. The layout of motor vehicle parking and loading areas, service areas, entrances, exits, yards, courts and landscaping, location of freestanding signs, control of lighting, noise or other potentially adverse influences in order to protect the residential character within and/or adjacent to the planned development;

G. The yard setbacks and type of buffering and/or screening of various land uses;

H. The plan shall note and the developer shall ensure that all utilities are placed underground, except for 25kv or greater electrical lines; and

I. Extension and connection to public water and/or sewer is required if extension and/or connection would be required under the provisions of the County Subdivision Ordinance. If the development consists of a non-residential use mixed use or planned neighborhood, and utilities are present within the right-of-way or if any adjacent lot is served by utilities, extension and connection is mandatory.



The Planning and Inspections Staff shall either approve the site plan and state the conditions of such approval, if any, or shall disapprove the site plan and state its reasons. Where a site plan meets the provisions of the Subdivision Ordinance, approval of the site plan shall constitute preliminary subdivision plat approval for the purposes of the County Subdivision Ordinance. The approved plan shall be filed with the Coordinator. The approved plan may be amended in the same manner as provided for original plan approval.

*(Amd. 02-19-08; Amd. 04-18-11)*

#### **SECTION 1404 PLANNING BOARD CONSIDERATION**

The Planning Board may hear and approve or deny a site plan, upon the written request for a hearing from the developer. An aggrieved developer may appeal conditions placed upon the approval of a site plan by the Planning and Inspections Staff to the Planning Board in accordance with the board's policy and schedule for hearing appeals.

*(Amd. 01-19-10; Amd. 04-18-11)*

### **ARTICLE XV AMENDMENTS**

#### **SECTION 1501. SUBMISSION OF AMENDMENTS AND CHANGES.**

The Board of Commissioners may amend, supplement, change, modify, or repeal the provisions of this ordinance, including but not limited to: its regulation of, or the number, area, boundaries and classifications of the zoning districts, upon petition, recommendation of the Planning Board, or on its own motion, after public notice and hearing as provided by law. No amendment shall become effective unless and until it is first submitted to, considered by and reported on from the Planning Board and thereafter approved by the Board of Commissioners. The following provisions shall govern submissions for amendment of this ordinance.

A. Submission of Petition. Petitions for amendments to this ordinance shall be submitted in the form prescribed by the Director. Submissions by the Board of Commissioners or by the Joint Planning Board on its own initiative shall state the proposed amendment succinctly. When a petition for rezoning is made by a person other than the tax record property owner, a local government entity or authorized agent of the tax record owner or a local government, the application must provide certification that the property owner has received actual notice of the petition and a notice of the legislative hearing. Third-party down-zonings are prohibited unless initiated by the governing body.

*(Amd. 01-19-10; Amd. 02-01-21)*

B. Schedule for Public and Legislative Hearings. All petitions for amendments may be set for public meeting to be considered for recommendation by the Planning Board, and then shall be heard at a legislative hearing and decided by the Board of Commissioners according to their adopted regular meeting schedule.

*(Amd. 02-01-21)*

C. Revisions to Petitions. If upon the initial review of the petition for amendment by the Planning and Inspections Staff, the petition is found to be inaccurate, incomplete or requires revision, or if the applicant of his own accord desires to make a change in the application for the petition, the petition may be rescheduled to the next available scheduled hearing.

*(Amd. 02-01-21)*

D. Notice to Military Bases. All requests for amendments that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of Fort Bragg, Pope Air Force Base, and/or Simmons Army Airfield shall be provided to the Commander of said bases in accordance with N. C. GEN. STAT. §160D-601.

*(Amd. 02-19-08; Amd. 02-01-21)*

**SECTION 1502. PLANNING & INSPECTIONS STAFF RECOMMENDATION.**

Upon submission of a complete petition for amendments of this ordinance, the Planning and Inspections Staff shall review the petition and the request and make a recommendation to the Planning Board. The Staff shall take into consideration, among other related issues, the following factors when considering criteria for their recommendation:

- A. The appropriateness of the request in relation to, and the request's consistency with the current Land Use Plan and adopted land use policies for the subject area;
- B. The availability of public services, to include utilities, schools, fire, police, recreation, etc.;
- C. The suitability of the request as related to the nature of the surrounding land area and any foreseeable effects on the surrounding area;
- D. The policies of the Planning Board and Board of Commissioners in similar cases;
- E. The effect of the request regarding environmental concerns;
- F. Any changed conditions or circumstances in the area of a proposed change since any previous zoning action;
- G. Whether the proposed amendment would correct an inadvertent mistake; and
- H. The reasonableness of the proposed request for all small-scale rezonings.  
(Amd. 11-20-06; Amd. 02-19-08; Amd. 04-18-11)

**SECTION 1503. PLANNING BOARD HEARING AND RECOMMENDATION.**

A. The Planning Board, upon receipt of a proposed amendment, by petition or otherwise, and upon a recommendation from the Planning and Inspections Staff, shall consider each proposed amendment and may hold a public meeting, public notice of which shall be given, for such consideration. Minutes of each meeting shall be kept in writing. Upon petition or other proposal for an amendment of the ordinance for the purpose of establishing a Conditional Zoning district or specifically changing the classification of an existing district or part thereof, the Planning Board may consider amending the ordinance to provide a classification or reclassification other than that specifically requested or recommended, provided that the notice to landowners and notice of public meeting state that classifications or reclassifications other than that requested may be considered. If, upon receipt of a proposal to reclassify one type of general zoning district to another, or the Planning Board proposes, or has a proposal from the Board of Commissioners, to consider establishment of a Conditional Zoning district, it must refer such proposal to the owners of the property to be included in such district for submission of a petition in accordance with the provisions of Article V hereof; no consideration of such a proposal shall occur unless and until such a petition is received.

(Amd. 02-01-21)

B. Following consideration of proposed amendments, supplements, changes, modifications or repeal of provisions of this ordinance, the Planning Board shall report all proposals it has considered to the Board of Commissioners along with a statement addressing consistency of the request with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable and with its recommendation thereon. Failure of the Planning Board to make a report and recommendation within 30 days after hearing a petition for a specific amendment shall constitute a favorable report and recommendation for such amendment.

(Amd. 11-20-06; Amd. 04-18-11; Amd. 02-01-21)

C. A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this ordinance or N.C. Gen. Stat. Chapter 160D where the outcome of the matter being considered is reasonably likely to have a direct,

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<http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

*(Amd. 02-01-21)*

#### **SECTION 1504. BOARD OF COMMISSIONERS' HEARING AND FINAL DISPOSITION.**

A. Upon receipt of reports and recommendations from the Planning Board concerning proposed amendments, supplements, changes, modifications or repeal provisions of this ordinance, the Board of Commissioners shall schedule a legislative hearing, upon notice to landowners of proposed action and notice of the hearing as required by law, and therefore shall approve or deny the proposed action. A failure to approve a proposed action shall constitute a denial of the proposal.

*(Amd. 02-01-21)*

B. The Board of Commissioners may approve an amendment of this ordinance to provide a classification or reclassification of a zoning district or part thereof, other than that specifically requested by a petitioner, provided that the notice to landowners and the notice of legislative hearing required by law states that classifications or reclassifications other than that requested will be considered and further provided that the Planning Board has considered other such classifications or reclassifications and reported on them to the Board of Commissioners. If such notice or such consideration has not been accomplished, the Board of Commissioners shall refer its proposal to amend this ordinance in a way other than that proposed by the petitioner to the Planning Board for further action in accordance with this ordinance.

*(Amd. 02-01-21)*

C. To approve any amendment, supplement, change, modification or repeal of any provisions of this ordinance, the Board of Commissioners shall address in a brief statement the consistency of the action with any officially adopted comprehensive plan; and make a finding and determination, entered in the minutes of the meeting, that such action is reasonable, neither arbitrary or unduly discriminatory and in the public interest. Consideration of any Conditional Zoning district is governed by Article V of this ordinance.

*(Amd. 02-01-21)*

D. Notice of approval of any amendment for an industrial zoning district within 660 feet of the right-of-way of interstate or primary highways shall be sent by registered mail to the North Carolina Department of Transportation in accordance with N. C. GEN. STAT. § 136-153.

*(Amd. 11-20-06; Amd. 04-18-11)*

E. A member of the Board of Commissioners shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance or N.C. Gen. Stat. Chapter 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Commissioner shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

*(Amd. 02-01-21)*

#### **SECTION 1505. PETITIONS FOR AMENDMENTS LIMITED: REAPPLICATIONS LIMITED.**

After the initial zoning process in a zoning area, an initial petition to amend this ordinance so as to reclassify property in that area may be submitted at any time. After the first such petition has been submitted, regardless of the outcome thereof, no subsequent petition, by the same or other persons, to reclassify the same property or any portion thereof, whether in conjunction with

other property or not, shall be considered earlier than one full calendar year after the date of the last public hearing before the Board of Commissioners on the most recent prior application to reclassify such property or portion thereof. A petition to amend this ordinance so as to reclassify property may be withdrawn without establishing a new one year time limit only by a written instrument submitted to the Director of Planning and Inspections prior to the first official notification to the public concerning the petition. If the instrument withdrawing a petition to reclassify property is received after such first notification of the public, the withdrawal shall be effective, but a subsequent petition to reclassify the same property or part thereof, as set forth above, shall not be considered earlier than one full calendar year after the date of the receipt of the withdrawal instrument. The foregoing time limits on petitions to reclassify property shall not apply to amendments of any nature initiated by the Planning Board or Board of County Commissioners.

## **ARTICLE XVI BOARD OF ADJUSTMENT**

### **SECTION 1601. ESTABLISHMENT.**

The Board of Commissioners, pursuant to N.C. GEN. STAT. §160D-302, does establish a Board of Adjustment. Such Board shall consist of at least five members appointed by the Commissioners, with membership providing for a means of proportional representation of the County's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Commissioners shall also appoint five alternate members at large to serve in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting.

*(Amd. 02-01-21)*

### **SECTION 1602. PROCEEDINGS.**

The Board shall elect a Chairperson and Vice-Chairperson from among its members. The Director shall assign a staff member to fill the Secretary and Clerk positions. Meetings of the board shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson or any member acting as Chair and the Clerk to the Board are authorized to administer oaths for all testimony. The Chairperson may compel the attendance of witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor. The Vice-Chairperson or any member of the board while temporarily acting as Chairperson has and can exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every motion or question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

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

*(Amd. 02-01-21)*

### **SECTION 1603. POWERS AND DUTIES.**

The Board of Adjustment shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development:

A. Hear and decide special use permits, requests for variances, and appeals of decisions relating to the administrative review of any order, requirement, decision or determination made by the Director or other administrative official regarding enforcement of this ordinance or other ordinance that regulates land use or development. (see Section 1604 below)

B. Vary or modify any of the regulations or provisions of this ordinance related to the construction or alteration of buildings or structures, dimensional requirements and minimum standards of individual uses except for specific location criteria for individual uses, in accordance with Section 1605, where there are unnecessary hardships in carrying out the strict letter of this ordinance, so that the spirit, purpose and intent of the ordinance shall be observed, public safety is secured and substantial justice achieved;

C. May hear and decide special use permit applications in accordance with standards and procedures specified in Section 1606;

D. Hear and rule on appeals from the County's Minimum Housing and Nonresidential Code.  
(Amd. 02-01-21)

E. Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with Sections 1003 and 1004;

F. Rule on matters related to the County's Water Supply Watershed Management and Protection Ordinance regarding High Density developments, appeal of the Watershed Review Officer's decision, and hear request for variance from the County Water Supply Watershed Management and Protection Ordinance;

G. Hear and rule on appeals and variance requests from the County's Flood Damage Prevention Ordinance.

### **SECTION 1604. APPEALS.**

The Board of Adjustment shall hear and decide from decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development pursuant to all of the following:

A. Any person who has standing under N.C. Gen. Stat. 160D-1402 or the County may appeal a decision to the Board of Adjustment. The notice of appeal shall state the grounds for the appeal.  
(Amd. 02-01-21)

B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the subject property owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. In the absence of evidence to the contrary, notice given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.  
(Amd. 02-01-21)

C. The owner or other party shall have 30 days from the receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

D. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the

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facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

*(Amd. 02-01-21)*

E. Subject to the provisions of subdivision (D) of this sub-section, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

F. The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed in that position shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

#### **SECTION 1605. VARIANCE.**

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

*(Amd. 02-01-21)*

A. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

*(Amd. 02-01-21)*

B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

*(Amd. 02-01-21)*

C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

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

*(Amd. 02-01-21)*

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. No change in permitted uses may be authorized by a variance.



The Board of Adjustment is also not authorized to grant variances to any use approved in a Conditional Zoning district or to the specific conditions or other performance criteria imposed upon such use. If the board denies a variance request, the board shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

*(Amd. 02-01-21)*

#### **SECTION 1606. SPECIAL USE PERMITS.**

The Board of Adjustment shall hear and decide applications for Special Use Permits. The various Special Uses set forth in the Use Matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.

A. Purpose. Permitting Special Uses adds flexibility to this ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

B. Procedure. Special Use Permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and a detailed site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule.

Developers are encouraged to discuss their Special Use plans with the Planning and Inspections Staff before submission. The staff shall assist the developer upon request by reviewing Special Use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the Special Use Permit requested. In granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan.

D. Final Disposition. In granting approval of a Special Use Permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest and as authorized under N.C. Gen. Stat. Chapter 160D. The applicant/landowner must give written consent to all imposed conditions. In granting a Special Use Permit, the Board of Adjustment may give due consideration to one or all of the following:

*(Amd. 02-01-21)*

1. The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

2. The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

3. The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

4. The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

5. The added noise level created by activities associated with the proposed use;

6. The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

7. Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

8. The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

9. The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

10. The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

11. The availability of public facilities and utilities;

12. The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

13. The reasonableness of the request as compared to the purpose and intent of the most recent Land Use Plan, this ordinance, and adopted policies, for the physical development of the district, and protection of the environment.

All such additional conditions imposed on the permit by the Board of Adjustment shall be entered in the minutes of the meeting at which the Special Use Permit is granted, on the Special Use Permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permit, their

heirs, successors and assigns. The applicant for the Special Use Permit is responsible for the recordation of the "Notice of Special Use Permit" with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the Board denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider resubmission of the application for the same Special Use Permit on the same property without a substantial material change concerning the property and the application.

E. Expiration of Permits. Any Special Use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval if the permit has not been recorded with the County Register of Deeds. Furthermore, once the Certificate of Occupancy has been issued for a Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, a re-submittal of the Special Use application for the same use may be required if there has been a material change in the ordinance standards.

F. Modifications to Plans. The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a Special Use application, and new conditions may be imposed where findings require. The Planning and Inspections Staff may approve minor modifications of the approved plans in the same manner as authorized in Section 506 for Conditional Zoning districts, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

G. Noncompliance. If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the Special Use Permit shall be null and void and of no effect, and the Planning and Inspections Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a Special Use Permit is an essential element of the Special Use Permit's continued validity and effectiveness. If the Coordinator shall determine that a permittee has failed to comply with a condition of an approved Special Use Permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the Board's decision whether or not to revoke the Special Use Permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the Special Use Permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery, electronic mail or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, may constitute written notice and service of the Board of Adjustment's decision hereunder.

H. Appeals of Special Use Permit Decisions. No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use Permit except through the Cumberland County Superior Court in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

## **SECTION 1607 HEARINGS**

A. The applicant, the County, and any person who would have standing to appeal the decision under N.C. Gen. Stat. 160D-1402(d) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal, the standing of a party, or the inclusion or exclusion of administrative material may be made to the board. The

board chair shall rule on any objections and the chair's rulings may be appealed to the full board.

*(Amd. 02-01-21)*

B. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted written request for a copy, prior to the date the decision becomes effective. The Clerk to the board shall certify that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

*(Amd. 02-01-21)*

C. The Secretary to the Board of Adjustment shall ensure the Commanders of Fort Bragg, Pope Army Airfield, and Simmons Army Airfield are notified of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. §160D-601.

*(Amd. 02-01-21)*

#### **SECTION 1608. REQUIRED VOTE.**

A. The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this sub-section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

B. A member of the Board of Adjustment exercising quasi-judicial functions pursuant to this ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation at or prior to the hearing or vote on the matter and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

*(Amd. 02-01-21)*

#### **SECTION 1609. REVERSAL/REVOCATION OF DECISION.**

After a hearing has been held and approval granted, the Board of Adjustment may reverse or revoke any decision in the same manner as was required for the approval upon finding that:

*(Amd. 02-01-21)*

A. The approval was obtained by fraud;

B. The use for which such approval was granted is not being executed;

C. The use for which such approval was granted has ceased to exist or has been suspended for one calendar year or more;

D. The permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval;

E. The permit granted is in violation of an ordinance or statute; or

F. The use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

#### **SECTION 1610. APPEAL OF FINAL DECISION.**

Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to N.C. GEN. STAT. §160D-1402. A petition for review of a quasi-judicial decision shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. The provisions of N.C. Gen. Stat. § 160D-1402 shall apply to the appeal.

*(Amd. 02-19-08; Amd. 08-18-08; Amd. 01-19-10; Amd. 04-18-11; Amd. 08-21-17; Amd. 02-01-21)*

### **ARTICLE XVII LEGAL PROVISIONS**

#### **SECTION 1701. VALIDITY.**

If any article, section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each article, section, sub-section, clause and phrase thereof, irrespective of the fact that any one or more articles, sections, sub-sections, sentences, clauses or phrases be declared invalid.

#### **SECTION 1702. VESTED RIGHTS.**

For purposes of vesting development rights, this ordinance incorporates by reference the provisions set forth in NC GEN. STAT. §160D-108; to include site-specific vesting plans.

If an application is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision for approval was rendered, the applicant may choose which version of the development regulation will apply to the development approval. If the applicant chooses the version of the rule in place at the time of the application, the applicant shall not be required to await the outcome of the amendment to the development regulation(s) prior to acting on the development approval. If the application is delayed or placed on hold for six consecutive months, the permit choice rule is waived and the application must meet the development regulations in place at the time the consideration of the application is resumed.

Nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights or expectations in the continuation of any particular use, district, zoning classification, or other permissible activities herein; and, the same are all hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of the public health, safety and welfare.

Further, the provisions of this ordinance shall apply from and after its effective date. The provisions of this ordinance shall not apply to any site plan that received a valid approval under site plan review procedures of the County Zoning Ordinance, effective date July 3, 1972, and subsequent amendments thereto, to the extent no provisions hereof, would be more stringent or impose greater requirements. Notwithstanding the preceding sentence, the requirements of any section of this ordinance expressly stating it shall apply to developments existing on the effective date hereof, shall so apply to any such site plan.

*(Amd. 02-01-21)*

### **SECTION 1703. VIOLATIONS.**

A. Statutory Authority. This ordinance may be enforced by any remedy authorized by N.C. Gen. Stat. § 160D-404 and N.C. Gen. Stat. §153A-123, to include criminal prosecution for a misdemeanor in accordance with Gen. Stat. § 14-4.

*(Amd. 02-01-21)*

B. Process for Issuance of Notice of Violation. If a Code Enforcement Coordinator finds that any provision of this ordinance is being violated, the Coordinator shall cause to be served upon the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail, a notice of violation. The notice of violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The notice of violation shall indicate the nature of the violation and order the action necessary to correct it. The notice of violation shall also state the monetary penalty and the right of the offender to appeal the violation that is the basis of the citation to the Board of Adjustment within ten days from the date of service of the notice of violation.

*(Amd. 02-01-21)*

1. Responsible Parties. The owner, lessee, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains any violation of the provisions of this ordinance may be held responsible for the violation and be liable for the penalties and be subject to the remedies provided in Section 1704 below.

2. Separate Offense. Each day that any violation continues after notification by the Coordinator that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

3. Appeal of Notice of Violation. If the offender files notice of appeal to the Board of Adjustment within the ten-day time period, the appeal shall stay the collection of the penalty so imposed as well as the corrective action prescribed in the citation. Appeals to the Board of Adjustment shall be administered as provided in Article XVI; however, the time for perfecting the appeal shall be ten days as hereinbefore stated.

*(Amd. 02-01-21)*

F. Emergency Enforcement. Notwithstanding the forgoing, in cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Coordinator may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

*(Amd. 02-19-08)*

### **SECTION 1704. PENALTIES.**

A. A person who violates any of the provisions of this ordinance shall be subject to revocation of any permits and a civil penalty in the sum of \$500.00 following the issuance of a civil citation. Each day the violation continues shall constitute a separate violation and the civil penalty shall accrue at the rate of \$500 each day until the necessary corrective action is taken. The penalty shall be recovered by the County in a civil action if the offender fails to pay the penalty to the Finance Director, Cumberland County, Post Office Drawer 1829, Fayetteville, North Carolina 28302, within ten calendar days after being cited for the violation. The civil action of recovery shall be in the nature of an action to recover a debt and shall include as an additional sum to be recovered the full costs of the action, including but not limited to, filing, service and attorney fees. Nothing in this section shall preclude the enforcement of this ordinance pursuant to the provisions of N.C. GEN. STAT. §14-4.

*(Amd. 02-01-21)*



B. Every violation of this ordinance shall be a misdemeanor punishable by a maximum fine of \$500.  
(Amd. 02-01-21)

**SECTION 1705. AMENDMENT CLAUSE.**

This ordinance, upon its effectiveness as provided by law, amends in its entirety the previously existing Cumberland County Zoning Ordinance, effective date of July 3, 1972, including all subsequent amendments to said previously existing ordinance, except where otherwise expressly stated within this ordinance.

**SECTION 1706. EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Cumberland County, this the 20th day of June 2005.

\*\*\*\*\*

Ms. Cannon stated this public hearing was moved forward from the remote January 19, 2021 meeting with the timeframe for comments extended through close of business January 26, 2021. Ms. Cannon stated Case P20-62 is to bring the county into compliance with the recently adopted NCGS §160D and to update the table of contents as appropriate to reflect the changes. Rawls Howard, Planning and Inspections Director, highlighted updates/changes with the following PowerPoint presentation.

**Background**

- State-Mandated
- Consolidates city- and county-enabling statutes for development regulations (153A and 160A)
- First comprehensive, state-wide land use code update in decades
- Does not make major policy changes or shifts in the scope of authority granted to local governments
- Does provide clarifying amendments and consensus reforms that will need to be incorporated into local development regulations

**Statute Change Highlights**

- Most zoning provisions remain the same. Chapter 160D is consolidation/reorganization of city and county regulations
- Other related statutes merged into 160D
  - Family Care Homes
  - Outdoor Advertising
  - Adult businesses
- Intentional differences retained (e.g. farm exemption)
- Clarifies and streamlined terminology and definitions
- Broaden conflict of interest standards to include staff
- Addresses comp plan consistency in more detail. Must have plan

**Zoning Ordinance Change Highlights**

- No change to technical standards
- Clarified terminology and review procedures (no longer allows conditional use permits, etc.)
- Broadened conflict of interest standards (added familial, business or association relationship)
- Legal: language for municipal relinquishment of zoning authority
- Added BOA as housing appeal body; county ordinances forthcoming
- Variance findings expanding for “reasonable accommodations”
- Permit choice for applicants

### Next Steps

- Work on Chapter 4 and Subdivision County Codes for 160D compliance

### Important Dates

- June 19, 2020  
Chapter 160D became effective June 19, 2020
- July 1, 2021  
Deadline for updating ordinances
- July 1, 2022  
Deadline for comprehensive plan requirement

Chairman Evans stated this public hearing was recessed at the January 19, 2021 meeting to this meeting and asked whether any written comments had been received. The clerk responded no written comments had been received.

Chairman Evans closed the public hearing.

Commissioner Adams asked why the rules in effect at the time of application would not be used as opposed to allowing applicants to choose. Rick Moorefield, County Attorney, stated the new statute incorporates permit choice for applicants if the rules change during the process before the permit is issued.

**MOTION:** Commissioner Lancaster moved in Case P20-62 to approve the text amendment and find the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with state statutes allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

**SECOND:** Commissioner Council

**VOTE:** UNANIMOUS (7-0) (Commissioner Boose was still absent from the meeting.)

### B. Approval of Submission of the Amendment to the 2019 Community Development Annual Action Plan

#### BACKGROUND

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES ACT), Public Law 116-136, was signed, providing \$5 billion for CDBG to rapidly respond to the coronavirus disease 2019 (COVID-19) and the economic and housing impacts caused by COVID-19. Due to this crisis, the U.S. Department of Housing and Urban Development (HUD) announced the allocations of CARES Act funding for CDBG grantees. Cumberland County was awarded \$509,194 of the supplemental CDBG funding (CDBG-CV) during the first round of allocations and \$435,210 in the third round of allocations. The total cumulative amount for all allocation rounds is \$944,404. The CARES Act allows CDBG grantees flexibility to amend its plans to be able to use CDBG-CV funds.

At the time the CDBG-CV funds were awarded, HUD recommended that grantees amend their most recent approved annual action plan under the new provisions by adding the CDBG-CV allocation in their plans as an available resource. Since the 2019 Annual Action Plan was amended to include the first round of funding allocations, Cumberland County Community Development is amending this plan to include the third round of funding allocations. In addition, grantees are required to identify the proposed use of the funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

Cumberland County Community Development is proposing to designate CDBG-CV funds for the provision of economic development activities, public services (human services) activities, and administration. HUD has suspended the 15% cap for public services to allow grantees to expand on this activity in order to meet the needs related to COVID-19.

All references to any materials which are described in these minutes or incorporated into these minutes are to the materials that are contained in the same numbered item in the agenda for this meeting. These may be viewed online in the agenda set out on this web page <http://co.cumberland.nc.us/departments/commissioners-group/commissioners/meeting-documents>

The public review and comment period was originally from January 8, 2021 through January 19, 2021. At the January 19, 2021 meeting of the Board of Commissioners, the public comment period was extended to the close of business on Tuesday, January 26. No written comments were submitted to the Clerk to the Board of Commissioners. The proposed amendment was made available for public review and comment on the County's Community Development website and at the County's Community Development office.

#### RECOMMENDATION / PROPOSED ACTION

Community Development proposes that the Board of Commissioners take the following action:

Approve submission of the Amendment to 2019 Community Development Annual Action Plan

\*\*\*\*\*

Ms. Cannon stated this public hearing was also moved forward from the remote January 19, 2021 meeting with the timeframe for comments extended through close of business January 26, 2021. Dee Taylor, Community Development Director, stated Cumberland County was awarded Community Development Block Grant funds through round three of the allocation made possible through the CARES Act and passed down through the US Department of Housing and Urban Development (HUD). Ms. Taylor stated the allocated amount for the third round was \$435,210, bringing the cumulative amount of Cumberland County's CDBG-CV funding to a total of \$944,404.

Ms. Taylor stated just as the Community Development Department did for the first round of funding, the department updated its 2019 Annual Action Plan to recognize the additional funding and allocated this funding to designated activities: \$500,404 was allocated for public services, which includes providing rental assistance and expanding health services within the Cumberland County Public Health Department; \$344,000 was allocated for economic development to continue to provide aide to small businesses that suffered an economic hardship during the pandemic crisis; and \$100,000 was allocated for administration and planning.

Ms. Taylor stated the amended Annual Action Plan was posted on Community Development's website for review between January 8 through January 19 and an ad was placed in the local newspaper to inform citizens of the revised plan, the public hearing and how citizens could provide comments. Ms. Taylor stated no comments have been received by the Community Development Department.

Chairman Evans stated this public hearing was recessed at the January 19, 2021 meeting to this meeting and asked whether any written comments had been received. The clerk responded no written comments had been received.

Chairman Evans closed the public hearing.

MOTION: Commissioner Lancaster moved to approve submission of the Amendment to 2019 Community Development Annual Action Plan.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (7-0) (Commissioner Boose was still absent from the meeting.)

#### 5. ITEMS OF BUSINESS

There were no items of business for this meeting.

#### 6. NOMINATIONS

##### A. Equalization and Review Board (6 Vacancies)

Commissioner Adams nominated Marva Lucas-Moore for the At-Large category for a second term; Andrea Phillips for the At-Large category to fill an unexpired term; Derwood Clark for the Businessman category; Wayne Collier for the Farmer category; Jassan Robbins for the Home Builder category; and George Turner for the Real Estate Agent/Broker category.

B. Transportation Advisory Board (3 Vacancies)

Commissioner Keefe nominated Ashley Patterson for the County DSS Director or Designee category; Rawls Howard for the County Planning Department Director or Designee category; and Justin Ritchey for the MPO Representative category.

7. APPOINTMENTS

A. Board of Adjustment (1 Vacancy)

MOTION: Commissioner Adams moved to appoint Vickie Mullins to the Board of Adjustment.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0) (Commissioner Boose was still absent from the meeting.)

8. CLOSED SESSION

A. Economic Development Matter(s) Pursuant to NCGS 143-318.11(a)(4)

MOTION: Commissioner Adams moved to go into closed session for Economic Development Matter(s) pursuant to NCGS 143.318.11(a)(4).

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (7-0) (Commissioner Boose was still absent from the meeting.)

Commissioner Boose rejoined the meeting at the conclusion of the closed session.

Commissioner Lancaster departed the meeting without having been excused.

MOTION: Commissioner Council moved to reconvene in open session.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (7-0) (Commissioner Lancaster was absent from the meeting.)

MOTION: Commissioner Adams moved to adjourn.

SECOND: Chairman Evans

VOTE: UNANIMOUS (7-0) (Commissioner Lancaster was absent from the meeting.)

There being no further business, the meeting adjourned at 9:53 a.m.

Approved with/without revision:

Respectfully submitted,

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Candice H. White  
Clerk to the Board