

CUMBERLAND COUNTY BOARD OF COMMISSIONERS  
MONDAY, JUNE 21, 2021 – 6:45 PM  
117 DICK STREET, 1ST FLOOR, ROOM 118  
REGULAR MEETING MINUTES

PRESENT: Commissioner Charles Evans, Chairman  
Commissioner Glenn Adams, Vice Chairman  
Commissioner Jeannette Council  
Commissioner Jimmy Keefe  
Amy Cannon, County Manager  
Tracy Jackson, Assistant County Manager  
Sally Shutt, Assistant County Manager  
Rick Moorefield, County Attorney  
Vicki Evans, Finance Director  
Jermaine Walker, Engineering and Infrastructure Director  
Dee Taylor, Community Development Director  
Rawls Howard, Planning and Inspections Director  
Robert Van Geons, Fayetteville Cumberland Economic Development Corporation President/CEO  
Candice H. White, Clerk to the Board  
Kellie Beam, Deputy Clerk

ABSENT: Commissioner Michael Boose  
Commissioner Larry Lancaster  
Commissioner Toni Stewart

Chairman Evans called the meeting to order.

INVOCATION / PLEDGE OF ALLEGIANCE

Commissioner Keefe provided the invocation followed by the Pledge of Allegiance to the American flag.

RECOGNITIONS - Cumberland County Students on Soil and Water Envirothon Achievements

Chairman Evans recognized members of the Cumberland County Soil and Water Conservation District Board. Chairman Evans called Donna Foster, Administrative Program Officer for Cumberland County Soil and Water Conservation District to the podium and recognized this year's three Cumberland County teams that participated and excelled at the Area Seven and State Envirothons. Some of the team members recognized were unable to be present.

Gray's Creek High School – Won 3rd Place at the Area Seven Envirothon and won the medallion for the high score in forestry. They also participated in the State Envirothon.

Advisor – Sean Garcia  
Team members:  
Alexandra Garcia  
Kaleb Horne  
Cole Leach  
Larkin Reeves  
Robert Woodall

71st Classical Middle School – won 3rd Place at the Area Seven Envirothon and won the medallion for the high score in Current Environmental Issues. They also participated in the State Envirothon.

Advisor - Victoria Gremelli  
Team members:  
Madelyn Ard  
Chad Harisell

Laila Lewis  
Zaniya Reddick  
Abnelly Santiago Gonzalez

Mac Williams Middle School/Mac Williams FFA – won 2nd Place Area Seven  
Envirothon/High Score for Current Environmental Issues  
Advisor – Kristoff Minus  
Team members:  
Bradon Knox  
Eli Magness  
Noah Magness  
Eanna Taylor

On behalf of the Board of Commissioners, Chairman Evans congratulated the students and their advisors for their achievements at the area and state levels for Envirothon.

#### PUBLIC COMMENT PERIOD

Amy Cannon, County Manager, read the public comment policy. Chairman Evans recognized the clerk to the board who called the following speaker:

Rev. Floyd Wicker – Rev. Wicker did not appear when his name was called.

Amy Cannon, County Manager, requested the following changes to the agenda: removal of Item 2.P.9. Amendment to the Flood Damage Prevention Ordinance; addition of Item 4.F. Designation of Voting Delegate to the 2021 NACo National Conference; addition of Item 7.B. Closed Session for Attorney Client Matter(s) Pursuant to NCGS 143-318.11(a)(3); and suspension of Item 4.E. until after closed session Items 7.A. and 7.B.

#### 1. APPROVAL OF AGENDA

MOTION: Commissioner Keefe moved to approve the agenda with the changes as requested.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (4-0)

#### 2. CONSENT AGENDA

- A. Approval of May 27, 2021 Special Meeting and June 7, 2021 Regular Meeting Minutes
- B. Approval of a Proclamation for Juneteenth Day

#### BACKGROUND

After the Board of Commissioners June 7, 2021 regular meeting, a request was made of a County Commissioner for a proclamation for Juneteenth Day 2021.

#### RECOMMENDATION / PROPOSED ACTION

The Board of Commissioners is respectfully requested to consider approval of the Juneteenth Day 2021 proclamation subsequent to the request.

COUNTY OF CUMBERLAND

NORTH CAROLINA

#### PROCLAMATION

WHEREAS, Juneteenth commemorates the traditional observance of the end of slavery in the United States and is observed annually on June 19; and

WHEREAS, President Abraham Lincoln correctly believed slavery to be in violation of the principles of the Declaration of Independence and that its abolition represented a new birth of freedom for the United States; and

WHEREAS, President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free and paving the way for the passing of the 13th Amendment which formally abolished slavery in the United States; and

WHEREAS, word about the signing of the Emancipation Proclamation was delayed in reaching authorities and African-Americans in the South and Southwestern United States some two and one half years to June 19, 1865; and

WHEREAS, the following year, the first official Juneteenth celebrations took place and have continued across the United States throughout the years; and

WHEREAS, Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery; and

WHEREAS, Juneteenth is an important opportunity to honor the principles of the Declaration of Independence and celebrate the achievements and contributions African-Americans have made and continue to make across our Nation.

NOW THEREFORE, We, the Cumberland County Board of Commissioners, urge all citizens to become more aware of the significance of Juneteenth in African-American history and in the heritage of our Nation.

Adopted this 21st day of June 2021.

C. Approval to Pay Prior Year Invoice and Budget Ordinance Amendment # B210372

BACKGROUND

On May 17, 2021, staff from the North Carolina Department of Environmental Quality forwarded an old outstanding invoice to the County Manager and requested payment. The invoice is from September 21, 2007 and is for a \$15,000 landfill permit renewal application. Because the invoice date is beyond the statutory record retention requirements for invoices, the County no longer has paper copies or electronic documentation to be able to immediately determine whether or not the invoice was paid.

Finance Director made contact with staff at NCDEQ who stated that payment of the invoice is required unless the County can produce a copy of the check that paid the invoice. They said that NCDEQ was recently audited by the state auditor who is making them send out collection notices on all their outstanding balances. Any balances that remain unpaid after July will begin to be charged interest. NCDEQ is working through an attorney on enforcing collections. Finance, Information Services, and Solid Waste staff have searched the old financial system and electronic tapes from PNC Bank for proof of payment but have found nothing that substantiates payment of this invoice.

Approval of the Board of Commissioners is required to pay this old, outstanding invoice as well as a budget ordinance amendment as follows:

Vendor: NCDEQ

Invoice Number: SW007-0043

Invoice Date: 9/21/2007

Invoice Amount: \$15,000

RECOMMENDATION / PROPOSED ACTION

Management is requesting approval to pay a NCDEQ invoice totaling \$15,000 and approval of Budget Ordinance Amendment #B210372 for a landfill permit renewal application from 2007.

D. Approval of ABC Board's Request to Adopt Cumberland County's Travel Policy

BACKGROUND

According to the attached correspondence from Frances Jackson, Chairman of the Cumberland County ABC Board, the ABC Board is requesting approval from the Cumberland County Board of Commissioners to adopt Cumberland County's Travel Policy No. 3-2: Travel Policy according to House Bill 1717: Modernization of the State ABC System; Section 13.

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>

#### RECOMMENDATION / PROPOSED ACTION

Consider approval of the ABC Board's request to adopt Cumberland County's Travel Policy No. 3-2: Travel Policy and direct the Clerk to the Board to send to the ABC Commission written confirmation of said action and a copy of Cumberland County's Travel Policy No. 3-2: Travel Policy.

- E. Approval of Bid Award to Crawford Sprinkler Company of Raleigh, Inc. for Recycling Center Fire Improvements

#### BACKGROUND

The existing dry pipe sprinkler system protecting the Recycling Center (formerly baling plant) at Ann Street has exceeded its useful life and is now experiencing water leaks and nuisance alarms resulting from pipe corrosion. The project will consist of removing the existing sprinkler system and replacing it with a new dry sprinkler system equipped with a nitrogen generator to prevent future pipe corrosion. The existing dry pipe sprinkler will be demolished. System improvements are being made in compliance with the requirements of the 2018 NC State Fire Code (NCSFC) and the local Authority Having Jurisdiction (AHJ). The project was originally bid on September 25, 2020, rebid on January 28, 2021, and was rebid with an alternate on May 5, 2021. Crawford Sprinkler Company of Raleigh, Inc has been the only bidder.

#### RECOMMENDATION / PROPOSED ACTION

Solid Waste Director and County Management recommend that the proposed actions:

1. Accept the bid for the Recycling Center Fire Improvements project and award a contract to Crawford Sprinkler Company of Raleigh, Inc. in the amount of \$630,000 inclusive of 5% for 70contingency purposes.

- F. Consideration of Resolution to Lease Certain Real Property to Cumberland County Communicare, Inc.

#### BACKGROUND

The Board adopted the required resolution of intent to lease at its May 17, 2021 meeting. Pursuant to G.S. 160A-272, the notice of intent was advertised in the Fayetteville Observer May 24, 2021. The publisher's affidavit is attached. Adoption of the attached resolution will authorize the Chairman to execute the lease.

#### RECOMMENDATION / PROPOSED ACTION

Adopt the following resolution:

The Board of Commissioners finds:

- The real property located at 109 Bradford Avenue will not be needed for government purposes for the term proposed for the lease of the property to Cumberland County Communicare, Inc.;
- The Board adopted a resolution of intent to lease the property described herein at its regular meeting held May 17, 2021; and
- The notice of intent to lease the property was advertised in the Fayetteville Observer on May 24, 2021.

BE IT THEREFORE RESOLVED that the Chairman is authorized to execute a lease to Cumberland County Communicare, Inc., a non-profit corporation, for that property consisting of approximately 13,994 square feet of office space located at 109 Bradford Avenue, Fayetteville, NC, for a term of not more than three (3) years commencing July 1, 2021, at an annual rental rate of Forty-One Thousand Three Hundred Eight Dollars (\$41, 308).

- G. Acceptance of Offer to Purchase Surplus Property Located at 209 B Street, Fayetteville

#### BACKGROUND

The County and the City of Fayetteville acquired the real property with the PIN 0437-93-2517, being J. S. Maulsby Property, Lots ½ Lot 4, Plat Book 204, Page 46, located at 209 B Street, Fayetteville, at a tax foreclosure sale in 2017 for a purchase price of \$9,328.39. The property is

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>

zoned MR5 with a tax value of \$5,000.00. The City conveyed its interest in the property to the County on June 2, 2021, by a quitclaim deed recorded in Book 11141 at page 101. Based on the GIS Mapping and the tax records, there is no structure on the lot. Ketsanee Chaianut made an offer to purchase the property for \$9,328.39. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

#### RECOMMENDATION / PROPOSED ACTION

The County Attorney recommends the Board consider the offer of Ketsanee Chaianut. If the Board proposes to accept the offer, resolve that the described real property is not needed for governmental purposes and direct that it be advertised and sold pursuant to the upset bid process of G. S. § 160A-269.

#### CUMBERLAND COUNTY BOARD OF COMMISSIONERS ADVERTISEMENT OF PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S § 160A-269

Take notice that the Board of Commissioners finds the real property with PIN 0437-93-2517, being J. S. Maulsby Property, Lots ½ Lot 4, Plat Book 204, Page 46, located at 209 B Street, Fayetteville, is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$13,170.73. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

H. Acceptance of Offer to Purchase Surplus Property Located at 4691 Matt Hair Road, Fayetteville

#### BACKGROUND

The County acquired the real property with the PIN 0462-14-6903, being Lot 11 David N. Girard, Section 1, Plat Book 118 at Page 47, located at 4691 Matt Hair Road, Fayetteville, at a tax foreclosure sale in 2012 for a purchase price of \$17,255.08. The property is zoned A1 with a tax value of \$19,746.00. Based on the GIS Mapping and the tax records, there is a structure on the lot. Jackie T. Samuel made an offer to purchase the property for \$17,255.08. If the Board proposes to accept this offer, the proposed sale must be advertised subject to the upset bid process of G. S. § 160A-269. The proposed advertisement is included in the recommendation below.

#### RECOMMENDATION / PROPOSED ACTION

The County Attorney recommends the Board consider the offer of Jeremiah McNeill. If the Board proposes to accept the offer, resolve that the described real property is not needed for governmental purposes and direct that it be advertised and sold pursuant to the upset bid process of G. S. § 160A-269.

#### CUMBERLAND COUNTY BOARD OF COMMISSIONERS ADVERTISEMENT OF PROPOSAL TO ACCEPT AN OFFER TO PURCHASE CERTAIN REAL PROPERTY PURSUANT TO N.C.G.S § 160A-269

Take notice that the Board of Commissioners finds the real property with PIN 0462-14-6903, being Lot 11 David N. Girard, Section 1, Plat Book 118 at Page 47, located at 4691 Matt Hair Road, Fayetteville is not needed for governmental purposes and proposes to accept an offer to purchase the property for \$17,255.08. Within 10 days of this notice any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder by making a five percent (5%) deposit of the bid with the Clerk. This procedure shall be repeated until no further qualifying upset bids are received. The Board of Commissioners may at any time reject any and all offers. Further details may be obtained from the Office of the County Attorney, Suite 551-Courthouse, Fayetteville, NC 28302.

I. Approval of Sale of Surplus Real Property Located at 701 North Street, Fayetteville



## BACKGROUND

On May 17, 2021, the Board adopted a resolution of its intent to accept the offer of Raymond King, on behalf of King Construction and Development company, Inc., to purchase property with PIN 0437-78-0030, located at 701 North Street, Fayetteville, for \$5,160.41, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned MR5, with a tax value of \$3,375.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on May 21, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

## RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

### J. Approval of Sale of Surplus Real Property Located at 703 North Street, Fayetteville

## BACKGROUND

On May 17, 2021, the Board adopted a resolution of its intent to accept the offer of Raymond King on behalf of King Construction and Development Company, Inc. to purchase property with PIN 0437-78-0035, located at 703 North Street, Fayetteville, for \$10,747.87, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned MR5, with a tax value of \$3,375.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on May 21, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

## RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

### K. Approval of Sale of Surplus Real Property Located at 869 West Orange Street, Fayetteville

## BACKGROUND

On May 17, 2021, the Board adopted a resolution of its intent to accept the offer of Carmen Hunter-Cameron to purchase property with PIN 0437-59-5574, being Lot 75 and Part of Lots 74 & 76, Pleasant View Park, Plat Book 10, Page 76, located at 869 West Orange Street, Fayetteville, for \$5,316.89, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned MR5, with a tax value of \$3,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on May 21, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

## RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

### L. Approval of Sale of Surplus Real Property Located at 1229 Hamlet Street, Fayetteville

## BACKGROUND

On May 17, 2021, the Board adopted a resolution of its intent to accept the offer of Calvin B. Freshley to purchase property with PIN 0436-36-5390, being Part of Lot 7, Block C. Tolar Hart & Holt Mill Village, Plat Book 10, Page 64, located at 1229 Hamlet Street, Fayetteville, for

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>

\$7,067.84, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned MR5, with a tax value of \$7,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on May 21, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received.

#### RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

#### M. Approval of Sale of Surplus Real Property Located at 4709 Star Rite Lane, Fayetteville

##### BACKGROUND

On February 15, 2021, the Board adopted a resolution of its intent to accept the offer of Michael Nepstad on behalf of MDN Rentals, LLC, to purchase the property with PIN 9493-45-9348, being Lot 107, Upchurch Sands, Sec. 4, Plat Book 94, Page 190, located at 4709 Star Rite Lane, Fayetteville, for \$7,368.93, and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned RR, with a tax value of \$10,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on March 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received. This matter was deferred from the May 3, 2021, meeting due to the bidder having delinquent taxes. Those have now been paid.

#### RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

#### N. Approval of Sale of Surplus Real Property Located at 4741 Desert Ridge Road, Fayetteville

##### BACKGROUND

On February 15, 2021, the Board adopted a resolution of its intent to accept the offer of Michael Nepstad on behalf of MDN Rentals, LLC, to purchase the property with PIN 9493-55-5245, being Lot 22, Upchurch Sands, Sec. 4, Plat Book 94, Page 190, located at 4741 Desert Ridge Road, Fayetteville, for \$8,391.75 and directed that it be advertised and sold pursuant to the upset bid process of G.S. § 160A-269. The parcel is zoned RR, with a tax value of \$10,000.00. Based on the County GIS Parcel View System and the tax records, there is no structure on the lot.

Notice of the proposed sale, subject to the upset bid process required by G.S. § 160A-269, was advertised in the Fayetteville Observer on March 9, 2021. The publisher's affidavit is attached. More than 10 days have elapsed since the notice was published. No upset bid was received. This item was deferred from the May 3, 2021, Agenda because the bidder had delinquent taxes. Those taxes have now been paid.

#### RECOMMENDATION / PROPOSED ACTION

County Attorney recommends the Board accept this offer and authorize the Chair or the County Manager to execute a deed for the property upon the County's receipt of the balance of the purchase price.

#### O. Approval of Budget Ordinance Amendments for the June 21, 2021 Board of Commissioners' Agenda

##### BACKGROUND

General Fund 101

- 1) Emergency Services Grants – Budget Ordinance Amendment B210298 to recognize North Carolina Emergency Management funds in the amount of \$10,000 for hazardous material preparedness activities

The Board is requested to approve Budget Ordinance Amendment B210298 to recognize North Carolina Department of Public Safety Emergency Management funds in the amount of \$10,000 for hazardous material preparedness activities. Cumberland County Emergency Services plans to partner with the Local Emergency Planning Committee (LEPC) to conduct a full-scale hazardous materials exercise. This grant award covers the period January 1, 2021 to February 28, 2022.

Please note this amendment requires no additional county funds.

- 2) Board of Elections – Budget Ordinance Amendment B210318 to increase personnel costs by \$125,034 due to the high volume of staff needed during COVID-19

The Board is requested to approve Budget Ordinance Amendment B210318 to increase personnel costs by \$125,034. This revision utilizes \$99,252 of Coronavirus Aid, Relief, and Economic Security (CARES) Act Supplemental Funds and \$25,782 transferred from operating expenditures. These funds will be used to reimburse Board of Elections for supplemental pay and to prevent, prepare for and respond to the coronavirus pandemic.

Please note this amendment requires no additional county funds.

- 3) Education – Budget Ordinance Amendment B210736 to recognize higher than anticipated sales tax revenue for Board of Education sales tax equalization in the amount of \$662,300

The Board is requested to approve Budget Ordinance Amendment B210736 to recognize higher than anticipated sales tax revenue for Board of Education sales tax equalization in the amount of \$662,300. Actual sales tax revenues have exceeded budget projections, therefore additional funding is needed to cover the Board of Education sales tax equalization per the interlocal agreement.

Please note this amendment requires no additional county funds.

#### Capital Investment Fund 107

- 4) Vehicles, Capital Investment Fund – Budget Ordinance Amendment B210300 to recognize insurance reimbursement proceeds in the amount of \$3,483

The Board is requested to approve Budget Ordinance Amendment B210300 to recognize insurance reimbursement proceeds in the amount of \$3,483. These funds represent a total loss vehicle settlement for an incident which occurred on May 22, 2021.

Please note this amendment requires no additional county funds.

#### Intergovernmental Fund 201

- 5) Sheriff – Budget Ordinance Amendment B210765 to recognize additional concealed weapon permit revenue in the amount of \$24,575

The Board is requested to approve Budget Ordinance Amendment B210765 to recognize additional concealed weapon permit revenue in the amount of \$24,575. This revenue will be used for projected expenses through the remainder of FY21.

Please note this amendment requires no additional county funds.

#### School Fines Fund 210

- 6) School Fines & Forfeitures – Budget Ordinance Amendment B210132 to recognize higher than anticipated School Fines & Forfeitures revenue in the amount of \$3,728



The Board is requested to approve Budget Ordinance Amendment B210132 to recognize higher than anticipated School Fines & Forfeitures revenue in the amount of \$3,728. This amount is based on a projection for the remainder of FY2021. The School Fines and Forfeitures Fund was established at the February 15, 2021 Board of Commissioners meeting per Governmental Accounting Standards Board (GASB) Statement 84 implementation.

Please note this amendment requires no additional county funds.

#### Juvenile Crime Prevention Fund 245

7) Juvenile Crime Prevention Council – Budget Ordinance Amendment B210738 to reflect program amounts as approved by the North Carolina Department of Public Safety, Division of Juvenile Justice in the FY21 Budget in the amount of \$25,000

The Board is requested to approve Budget Ordinance Amendment B210738 to reflect program amounts as approved by the North Carolina Department of Public Safety, Division of Juvenile Justice in the FY21 Budget in the amount of \$25,000

Please note this amendment requires no additional county funds.

#### Emergency Rental Assistance (ERA) Fund 269

8) Emergency Rental Assistance – Budget Ordinance Amendment B210018 to recognize the second round of additional funding from the United States Department of the Treasury Emergency Rental Assistance Funds in the amount of \$1,182,304

The Board is requested to approve Budget Ordinance Amendment B210018 to recognize the second round of additional funding from the United States Department of the Treasury Emergency Rental Assistance Funds in the amount of \$1,182,304. The purpose of this program is to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic.

Please note this amendment requires no additional county funds.

9) Emergency Rental Assistance – Budget Ordinance Amendment B210127 to transfer Emergency Rental Assistance (ERA) funds from the Community Development Fund to the Emergency Rental Assistance Fund in the amount of \$3,735,545

The Board is requested to approve Budget Ordinance Amendment B210127 to transfer funding for Emergency Rental Assistance from the Community Development Fund to the Emergency Rental Assistance Fund in the amount of \$3,735,54. The newly established Emergency Rental Assistance Fund is needed for tracking purposes and to ensure compliance with United States Department of the Treasury guidelines. These funds were originally recognized at the February 15, 2021 Board of Commissioners meeting.

Please note this amendment requires no additional county funds.

#### Capital Projects Fund 400

10) Capital Improvement Projects and Bullard Circle Water Capital Projects – Budget Ordinance Amendment B210739 to align the Capital Projects Fund budget with actual expenditures and revenues in the amount of \$2,426,888

The Board is requested to approve Budget Ordinance Amendment B210739 to align the Capital Improvement Projects fund budget with actual expenditures in the amount of \$2,426,888. This action is needed to closeout completed multi-year projects and to transfer available funds to the Capital Investment Fund.

Please note this amendment requires no additional county funds.

#### Crown Capital Projects Fund 425

11) Crown Improvement Projects – Budget Ordinance Amendment B210743 to align the Crown Capital Projects Fund budget with actual expenditures and revenues in the amount of \$1,956,473

The Board is requested to approve Budget Ordinance Amendment B210743 to align the Crown Capital Projects Fund budget with actual expenditures and revenues in the amount of \$1,956,473. This action is needed to closeout completed multi-year projects and to transfer available funds to the Capital Investment Fund.

Please note this amendment requires no additional county funds.

#### Contingency Funds Report – FY21

The County Manager approved the following use of contingency funds totaling \$ 165,527

- \$95,000 was used due to process expenses associated with a higher volume of tires being recycled in the Solid Waste fund
- \$67,636 was used for the concrete pad and shingle recycling project due to the increased cost of supplies
- \$2,891 was used to move remaining funds from the DSS Chiller Phase 2 project to the LEC Elevator Modernization project

#### RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments

P. Approval of Cumberland County Board of Commissioners Agenda Session Items

1. Resolution to Establish a Joint Fort Bragg & Cumberland County Food Policy Council

#### BACKGROUND

CCDPH, Fort Bragg Public Health, UNC and UNCG collaborated on an application to the Aetna foundation. In 2020 CCDPH was awarded \$100,000 dollars over a 2-year period for the Aetna Foundation's Healthiest Cities and Counties Challenge to jointly address food insecurity with Fort Bragg, UNCG and UNC on and off base. This project currently includes 2 part time resident leaders and two subcommittees that are working on two separate issues. The food assessment subcommittee is working on assessing the food environment on and off base using a tool called Google My Maps. Residents can sign up to go into stores and do a brief survey about the healthy food options in those stores. This assessment will be used to inform the work for years to come. The food policy council subcommittee is working on the development of the first joint Military/County Food Policy Council in the nation. They have developed bi-laws, term limits etc. to help in preparing for the establishment of the joint food policy council in Cumberland County.

This agenda item was considered at the June 10, 2021 Agenda Session meeting. The Board of Commissioners unanimously approved this item to be placed on the June 21, 2021 consent agenda.

#### RECOMMENDATION / PROPOSED ACTION

Cumberland County Department of Public Health and Fort Bragg Department of Public Health are recommending that the Cumberland County Board of Commissioners approve and adopt a resolution supporting the Resolution to Establish a Joint Fort Bragg & Cumberland County Food Policy Council as an item on the Consent Agenda during the June 21 Regular Meeting.

#### RESOLUTION NO. 1

Resolution to Establish a Joint Fort Bragg & Cumberland County Food Policy Council

WHEREAS, the accessibility of healthy, nutritious foods for the residents of Cumberland County and Fort Bragg is an essential component to a thriving community;

WHEREAS, the state of North Carolina is above the United States average for food insecurity; and whereas based on data from 2018, approximately 56,000 residents (16.9%) in Cumberland County face food insecurity, a rate higher than North Carolina, overall. Approximately 19,000 of those who are facing food insecurity are children;

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>

WHEREAS, Fort Bragg, being the most populated Army installation, is home to 10% of the Army's active component forces, with most of those soldiers and their families residing in Fayetteville and the surrounding cities; and 25% of food deserts in Cumberland County are located on Fort Bragg;

WHEREAS, a joint Fort Bragg & Cumberland County Food Policy Council aims to address shortcomings in the local food system and will push for policy changes to be made that will make healthy, nutritious foods more attainable for all residents.

THEREFORE, BE IT RESOLVED, The Cumberland County Board of Commissioners supports the establishment of The Fort Bragg & Cumberland County Food Policy Council. The Fort Bragg & Cumberland County Food Policy Council shall become effective after passage by the majority of the Board and shall continue annually, unless terminated.

#### Section 1: Duties & Responsibilities

The Fort Bragg & Cumberland County Food Policy Council will be responsible for the following stated duties:

- (A) Increase accessibility to healthy, nutritious foods in both Fort Bragg and Cumberland County by identifying and recommending policy changes to Fort Bragg and Cumberland County leadership.
  - (B) Incorporating health, equity, and sustainability considerations in policies, processes, and decision-making process as it relates to food insecurity
  - (C) Decrease the current number of adults and children facing food insecurity in the County (approximately 56,000).
  - (D) Communicate with various food system stakeholders for their expertise and build a better sense of cohesion amongst food system workers.
  - (E) Collaborate with Community Food Strategies to network with other existing Food Policy Councils in the Southeast Region of North Carolina
  - (F) Explore ways to conserve local resources such as plants and soil, water, air quality, farming and agricultural land, local livestock, and capital.
- The Fort Bragg & Cumberland County Food Policy Council shall serve as an advisory board and has no authority to take official action on behalf of Fort Bragg and Cumberland County.

#### Section 2: Membership

The Fort Bragg & Cumberland County Food Policy Council will consist of a maximum of fifteen members appointed by the Cumberland County Commission Chair with guidance and approval from the Board of Commissioners. With equity at the forefront, members will be recruited with the aim to reflect the racial, economic, and geographic diversity of Cumberland County and Ft. Bragg, including those who have experienced food insecurity. Each member of the Council will be appointed to a 1-year term. Term end dates will be staggered to ensure at least three members with experience can pass on knowledge to new members. Membership for the Food Policy Council will include the following:

- (A) Two co-chairs
  - a. One military chair from Fort Bragg
  - b. One civilian chair from Cumberland County
- (B) At least three community members who do not work in local government or health agencies
- (C) Two members involved in local farming and agriculture

- (D) One member representing local higher education (Fayetteville State University, Methodist University, & Fayetteville Technical Community College)
- (E) One member representing Fort Bragg Schools
- (F) One member representing Cumberland County School District
- (G) Three members who work in the fields of healthcare, public health, food insecurity/food access, or child and adult care
- (H) Two members who work in local government

Cumberland County Health Department will provide staff support to the Food Policy Council as available.

### Section 3: Meetings

- (A) The first meeting for the Fort Bragg & Cumberland County Food Policy Council shall be held by September 2021.
- (B) At minimum, four meetings shall occur held each year. There will be a notice given at least 14 days prior to any upcoming meetings, and the proposed agenda for each meeting shall be made available to the public at least seven days prior to meeting. Emergency meetings shall be announced by Co-chairs and, if extenuating circumstances exist, members of the Council may participate by means of conference call or virtual video platform. Minutes shall be promptly recorded and made available to the public on the County website

### Section 4: Bylaw Evaluation

Formal reviews and updates to the bylaws will be conducted annually. Bylaws may be adapted, changed, or modified as needed, with the consent of the Co-chairs and majority approval from the Council.

### Section 6: Funding

The Fort Bragg & Cumberland County Food Policy Council will receive funding from The Healthiest Cities and Counties Challenge (HCCC) Grant, sponsored by the Aetna Foundation, the American Public Health

Association, and the National Association of Counties. This grant will provide funding until June 2022. The Food Policy Council may actively seek grant funding for its activities.

### Section 7: Effective Date

PASSED, APPROVED, and ADOPTED by The Cumberland County Board of County Commissioners this 21st day of June 2021.

## 2. Extension of the North Carolina 9-1-1 Board Grant

### BACKGROUND

In November 2019 the county was awarded a grant totaling \$2,251,387 by the North Carolina 911 Board for the new 911 Call Center located in the future Emergency Services Building at 500 Executive Place. The grant will help fund renovation and construction costs for the call center, including space for 15 workstations and five live training workstations. The amount awarded represents 22% of the total estimated project cost. The Grant award was in effect for the period starting November 16, 2019 until June 30, 2021. County staff and the North Carolina 9-1-1 Board would like to extend the grant period until April 30, 2022.

#### RECOMMENDATION / PROPOSED ACTION

This item was presented to the Board of Commissioners at their June 10, 2021 Agenda Session and moved forward as a Consent Agenda item at the June 21, 2021 Board of Commissioners' Regular Meeting. Staff recommends the approval of the grant extension and for the Board to authorize the County Manager to sign the extension of the grant.

#### 3. FY21 Rural General Public Program (RGP) Contract Amendments for Rides to Vaccination Sites

##### BACKGROUND

The Community Transportation Program (CTP) received Board approval to recognize Coronavirus Aid, Relief and Economic Security (CARES) Act funding from the Department of Health and Human Services in the amount of \$44,561.00 at the February 15, 2021 meeting.

To finish this fiscal year's financial obligations to B & W Transporting, Incorporated and Famiks Transport, Inc., who provides contracted transportation services for the Cumberland County Community Transportation Program, the County will need to increase the existing RGP contracts between the County and B & W Transporting Incorporated in the amount of \$22,281.00 and Famiks Transport, Inc. in the amount of \$22,280.00. These contract amendments will authorize the use of the CARES funding to pay specifically for the vaccination rides provided this fiscal year.

#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was moved forward as a Consent Agenda Item at the June 21, 2021 Board of Commissioners' Regular Meeting. Staff recommends approval of the contract amendments to the existing RGP contracts between the County and B & W Transporting, Incorporated and Famiks Transport, Inc.

#### 4. Cumberland County Community Transportation 2021 System Safety Plan

##### BACKGROUND

The Cumberland County Community Transportation Program System Safety Plan for 2021 has been updated in order to meet requirements from the North Carolina Department of Transportation (NCDOT) – Public Transportation Division.

The purpose of the plan is to address NCDOT requirements for our program. These requirements for our program stipulate that our private contractors deliver safe and reliable transportation for Cumberland County residents. The plan includes six core elements: Emergency Action, Fire Prevention, Preventative Maintenance, Drug and Alcohol Policy, Security, and Continuity of Operations.

#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was moved forward as a Consent Agenda Item at the June 21, 2021 Board of Commissioners' Regular Meeting. Staff recommends approval of the plan as submitted in order to meet requirements from the North Carolina Department of Transportation.

#### 5. FY22 Community Transportation Services Contract Extensions

##### BACKGROUND

The Board of County Commissioners is being asked to consider extending the existing contracts for service providers for the upcoming Fiscal Year 2022. The Transportation Advisory Board at their last meeting on May 11, 2021 agreed that in these changing times, it is in the best interest of the program and the County to extend the contracts for one more year. This will be the first extension of the contracts for transportation services which is an option spelled out in the original Request for Proposals (RFP). These contracts were originally approved and awarded by the Board of County Commissioners at the June 15, 2020 meeting to B & W Transporting, Incorporated and Famiks Transport, Inc. for Fiscal Year 2021. The two companies will continue to provide transportation services to Cumberland County residents for Fiscal Year 2022 in accordance with the existing contract terms.



#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was moved forward as a Consent Agenda Item at the June 21, 2021 Board of Commissioners' Regular Meeting. Staff recommends approval of the contract extensions for the FY22 budget year.

#### 6. Fayetteville Area Metropolitan Planning Organization (FAMPO) Memorandum of Understanding Update

##### BACKGROUND

The Fayetteville Area Metropolitan Planning Organization (FAMPO) has updated the Memorandum of Understanding (MOU) that exists between FAMPO and its municipalities including the Cities of Fayetteville and Raeford, the Towns of Eastover, Hope Mills, Parkton and Spring Lake, the Counties of Cumberland, Harnett, Hoke and Robeson, Fort Bragg Military Reservation, and the NC Department of Transportation in cooperation with the US Department of Transportation, to include the Fort Bragg Military Reservation as a voting member.

A representative from Fort Bragg has always been a non-voting member of the FAMPO Transportation Policy Board (TPB). Fort Bragg initially requested to become a voting member of the FAMPO TPB due to the National Highway System (NHS) routes going through the post and the recent coordination of work on projects, to include the I-295 Outer Loop. The issue was taken to the Federal Highway Administration (FHWA) and they agree that Fort Bragg has the right to be a voting member given the fact that there are facilities on the post that are publicly funded and maintained and eligible for planning and prioritization. Other administrative updates were made to the MOU revising position titles for the City of Fayetteville.

The updated MOU includes Fort Bragg as a voting member on the FAMPO Transportation Policy Board as stated in Section 3 of the document. Presentations have been scheduled throughout May and June for each municipality in the FAMPO Metropolitan Planning Area for adoption. A final signed copy will be sent to each municipality upon completion.

#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was moved forward as a Consent Agenda Item at the June 21, 2021 Board of Commissioners' Regular Meeting. Staff recommends approval of the FAMPO Memorandum of Understanding to include the Fort Bragg Military Reservation as a voting member of the FAMPO Transportation Policy Board.

#### 7. Request to Initiate a Preliminary Engineering Report (PER) for the Sewer to the Shaw Heights Community

##### BACKGROUND

The Public Utilities Department has reached out to Moorman, Kizer & Reitzel, Incorporated (MKR) to submit a proposal for the preparation of a Preliminary Engineering Report (PER) under the Board approved "On-Call List" to extend sanitary sewer mains throughout the Shaw Heights residential neighborhood.

The request for the PER is in coordination with the Community Development Department as a community improvement project in the Shaw Heights area. MKR has submitted the attached proposal in the amount of \$49,485.

Funding is available in the Community Development fund to pay the costs of the PER.

The next step to be taken if the Board chooses to move forward with the PER will be to approve the contract with MKR.

#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was approved to move forward to the June 21, 2021 Board of Commissioners Regular Meeting as a Consent Agenda Item. Staff is requesting approval to move forward with the preliminary engineering report with MKR.

8. Board of Commissioners' Meeting Room Update

**BACKGROUND**

At the June 10, 2021 Board of Commissioners' Agenda Session, staff discussed the options for renovating the Judge E. Maurice Braswell Courthouse Rooms 118 & 119 or the Historic Courthouse Courtroom. There was a consensus by the Board to explore in greater detail the renovation of the entire Historic Courthouse. This will involve an expanded scope of work for the Wooten Company Architects and repricing based on the expanded scope.

**RECOMMENDATION / PROPOSED ACTION**

Staff will discuss the expanded scope and pricing with the Wooten Company and return with additional details at the Board of Commissioners' August 2021 Agenda Session.

9. REMOVED FROM AGENDA

10. Judge E. Maurice Braswell Courthouse Switchgear Bid Award and Associated Budget Ordinance Amendment #B210054

**BACKGROUND**

During the Courthouse Generator replacement project in September of 2020, it was discovered that the main electrical switchgear within the Courthouse needed to be replaced. The switchgear is original to the facility and is nearly forty-three years old. On December 29, 2020, the County entered into a design and technical services agreement with Progressive Design Collaborative (PDC) for the switchgear replacement.

The switchgear replacement for the JEMB Courthouse was originally programmed for \$270K in FY21. Of that original amount \$16K has been encumbered for design and bid-advertising, leaving a total of \$254K left. The project was solicited for bids on April 29th, 2021 with the bid closing date on May 7, 2021. J.L. Britt had the lowest bid with a bid price of \$454K, leaving a delta of \$200K.

The original project budget was based upon the assumption that an Eaton switchboard could be connected directly to the existing busway serving the upper floors of the building.

After progressing into the design phase of this project, it was determined that this approach would be extremely risky and did not allow any margin for error during the replacement. If anything went wrong with the physical positioning of the switchboard in relation to the three different pieces of busway it would cause an extended power outage to the courthouse.

Additionally, it is unlikely that the replacement even if executed without error could have been completed over a weekend. As such this solution did not meet the project constraints. The design moved forward with replacing the existing 1600A busway in the basement. While this introduced more cost and complexity into the project, it minimizes the potential for an extended outage and will allow the replacement to take place over a holiday weekend. Furthermore, the current bidding climate is over-stimulated due to higher costs of construction materials and the existing busway is original to the building and near end of useful-life and obsolete. While we did not replace the entire run of busway, the busway needs replacement and the added cost of replacing the sections of busway in this project will benefit the long-term health of the building. The building is forty-three years old and is near the age in its life-cycle where a complete electrical overhaul is required.

Timing of this project necessitates we issue the Notice to Proceed by 1 July to meet the Thanksgiving Holiday Weekend execution date.

**RECOMMENDATION / PROPOSED ACTION**

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was approved to move forward to the June 21, 2021 Board of Commissioners Regular Meeting as a Consent Agenda Item. Staff recommends the Board of Commissioners approve the acceptance of the lowest qualifying bid from J.L. Britt and the associated Budget Ordinance Amendment #B210054 for an additional \$200K.

11. Change Order for LEC Elevator Modernization

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>

## BACKGROUND

The Law Enforcement Center (LEC) elevator modernization is a FY19 CIP project that is nearing completion. On November 18, 2019, the Board of Commissioners approved a project contingency of \$100K and delegated that signature authority to the County Manager. The project has incurred a total of six change orders, with change orders one through four totaling \$98,825.

The reasons for change orders one through four are as follows:

- 1) Changing the location of the new fire alarm panel with the required extended circuits – (\$2,114.00)
- 2) Providing electrical wiring and mechanical support for eight (8) new duct detectors and five (5) new remote alarm indicator lights – (\$11,006.00)
- 3) Adding security panels and card readers for two (2) elevators and associated infrastructure required to support the security additions; adding a fire alarm relay and module for the generator; installation of cameras in three (3) elevators and changing the base security system in the LEC building – (\$69,238.00)
- 4) Adding to tie-in for mini-split and machine room lighting for Elevator #3 into emergency power; Tie-in lighting at the elevator landings on the second and third floor into generator power along with final inspections - (\$16,467.00)

Change orders five and six are for:

- 5) Adding waterproofing to Elevator #2 shaft with hydro grout injection – (\$31,620.00)
- 6) Tie-in security cameras into emergency power – (\$2,891.00)

To summarize all change orders tie the elevator controls, alarms, cameras, and card readers into emergency power. The addition of the waterproofing to the shaft of Elevator #2 prevents the elevator from locking out due to previous water intrusion.

Change order five is \$31,620 (\$1,175 of this is remaining contingency). Change order six is \$2,891.

The requested for additional contingency totals \$33,336. The funding for the two change orders will come from cost savings from two previously completed projects.

## RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was approved to move forward to the June 21, 2021 Board of Commissioners Regular Meeting as a Consent Agenda Item. Staff recommends approval of the additional change orders above the project contingency.

## 12. Amendment to the Purchasing Policy

## BACKGROUND

Multiple changes are being requested to update the Purchasing Policy to allow for greater efficiencies, to further clarify contract processing requirements, revise unclear language, and to implement a recent change allowed within the federal procurement guidelines. Finance Department staff have been working with the County Attorney's Office staff on the amended policy language. The requested revisions to the policy are shown in red in the attachment, with corresponding numbered comments to explain why each change is being requested.

## RECOMMENDATION / PROPOSED ACTION

This item was presented during the June 10, 2021 Agenda Session meeting. There was consensus for approval and to move this item forward as a Consent Agenda item at the June 21, 2021 Board of Commissioners' meeting.

<p style="text-align: center;"><b>Cumberland County</b></p> <p style="text-align: center;"><b>Section I – Board Approved Policies</b></p> <p style="text-align: center;"><b>Subsection 3: Cumberland County Financial / Audit</b></p> <p style="text-align: center;"><b>Policy No. 3-3: Purchasing Policy</b></p>
---

**The following policy was originally adopted on June 21, 1999 by the Board of Commissioners. This policy was amended on February 25, 2002, November 1, 2010, June 5, 2017, June 18, 2018, ~~and~~ August 6, 2018, and June 21, 2021<sup>[VE1]</sup> by the Board of Commissioners.**

## **1.0 PURPOSE**

~~This manual has been developed as a resource for Cumberland County employees to follow when procuring goods and services on behalf of the County. The policy and procedures provided in this manual were~~ This policy is <sup>[VE2]</sup> established to ensure the fair and equitable treatment of all persons involved in public purchasing, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity, in accordance with North Carolina General Statutes (N.C.G.S) and federal law<sup>[VE3]</sup>.

## **2.0 SCOPE**

This policy applies to all County employees conducting purchases on behalf of Cumberland County. Any reference of "department head" throughout this policy is inclusive of the elected offices of the Register of Deeds and the Sheriff, as well as any interim assignments of department head responsibilities. Any reference to approval authority of the County Manager shall also apply to the County Manager's designee as authorized in writing by the County Manager in their absence. <sup>[VE4]</sup>

## **3.0 POLICY**

### **3.1 Local Preference Policy**

Contracts for the provision of services in any amount and all contracts for the purchase of apparatus, materials, supplies and equipment in which the aggregate purchase price in any single contract is less than \$30,000 shall be awarded to local vendors or suppliers, to the greatest extent possible, in accordance with the further conditions set out herein.

Local vendors or suppliers shall be those who demonstrate that they pay business personal or real property taxes and are either self-employed residents of Cumberland County or employ at least one resident of Cumberland County as an employee or officer of the contracting business entity.

### **3.2 Purchase Orders**

All services and purchases in amounts of \$51,000 <sup>[VE5]</sup> and more must have a purchase order prior to the purchase being made or the services being rendered. All purchases ~~of goods in an amount greater than \$500~~ requires a written (electronic or printed) document (invoice, quote, proposal, etc.) with sale details prior to payment being made<sup>[VE6]</sup>.

### **3.3 Purchases & Services**

Less than \$51,000 <sup>[VE7]</sup>

Department heads shall authorize services or purchases of apparatus, supplies, materials or equipment up to \$4,999.99 <sup>[VE8]</sup> without a purchase order if sufficient funds are budgeted and available within the department budget. Prior to the purchase, departments must ensure there is an appropriation authorizing the obligation and that sufficient funds will remain in the appropriation to pay the amounts that are expected to come due in the fiscal year in which the obligation is incurred.

\$51,000 <sup>[VE9]</sup> – \$29,999.99

Department heads shall solicit proposals for services or purchases of apparatus, supplies, materials or equipment when the estimated cost is between \$51,000 - \$29,999.99. County Purchasing will review the purchase upon receipt of requisition to ensure compliance with

County policies. County Purchasing may ~~elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available~~ as determined necessary and appropriate by the Finance Director. [VE10]

### 3.4 Purchases of apparatus, supplies, materials, or equipment

#### \$30,000 – \$89,999.99

**Informal bids** are required for any purchase of apparatus, supplies, materials, or equipment that requires an expenditure of \$30,000 - \$89,999.99. ~~Departments shall submit specifications to County Purchasing for purchases in this category. - except for Exemptions: purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). Departments shall submit specifications to County Purchasing for purchases in this category.~~ [VE11]

#### \$90,000 and Above

**Formal bids** are required for any purchase of apparatus, supplies, materials, or equipment in amounts of \$90,000 or more, ~~with the exception of purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e).~~ [VE12] Departments shall submit specifications to County Purchasing for purchases in this category. The County Manager must approve bid awards in amounts between \$90,000 - \$99,999.99. The Board of Commissioners must approve bid awards in amounts of \$100,000 or greater. ~~Bids for engineering and construction must comply with North Carolina General Statutes.~~ [VE13] Exemptions: purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). [VE14]

~~Bid award is not a substitution for receiving contract approval in accordance with the dollar thresholds established within this policy or as further delegated by the Board of Commissioners.~~ [VE15]

### 3.5 Purchase of Services

#### \$30,000 and Above

**An Informal RFP** process is required for services estimated to cost \$30,000 or more. County Purchasing will review the proposal upon receipt of requisition to ensure compliance with county policies. County Purchasing may ~~elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available.~~ as determined necessary and appropriate by the Finance Director. [VE16]

### 3.6 Procurement Cards

The procurement card program was established to provide a more rapid turnaround of requisitions for low dollar value goods, and to reduce paperwork and handling costs. Procurement cardholders may initiate transactions in person, or by telephone, within the established limits of these procedures. Department heads may designate individuals to receive procurement cards. ~~Prior to signing for a procurement card and annually thereafter, procurement cardholders must attend a class conducted by~~ [VE17] County Purchasing addressing the guidelines involved in the responsibility associated with the card. To ensure pre-audit requirement compliance, funds for each department's estimated procurement card charges shall be encumbered at the beginning of each fiscal year.

### 3.7 Contracts

~~A contract is an agreement stating the obligations and benefits arising out of a transaction between the County and at least one other party. A contract must be signed by the County and all other parties to the contract. The contract, in its final form, requires review for legal sufficiency approval prior to consideration for approval/signature.~~ [VE18] All contracts for expenditures, in amounts of \$50,000 or more require County Manager signature. Contracts **resulting from a formal bid process** for expenditures in amounts of \$100,000 or more require ~~the~~ Chairman to the Board of Commissioners signature, after Board approval. Contracts with a total amount less than \$50,000 may be signed by the Department head.



These signature requirements pertain to all contracts in which the county is obligated to expend funds of \$5,000 and above <sup>[VE19]</sup>, even if the funds have been approved by the Board of Commissioners in the original budget. Digital signatures by vendors or non-County personnel are permitted on contracts when there is legal authentication attached to the signatures and when the digital signature system being utilized provides system integrity in the process to ensure the signed document has not been altered in transit. Digital signatures by County personnel will be permitted pursuant to a system and/or process approved by the County Manager. <sup>[VE20]</sup>

The Board of Commissioners must approve all interlocal agreements, regardless of the dollar amount. The action approving the agreement must be recorded within the minutes of the Board of Commissioners' meeting. <sup>[VE21]</sup>

If an amendment to the original contract occurs, an equivalent position to the original contract signor must also sign the amendment, regardless of the original contract dollar amount or method of award. Any delegation of authority to execute contract changes to engineering and construction contracts must be stated in writing within the original contractual agreement. <sup>[VE22]</sup>

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). See the Addendum following section 4.0 of this policy for the Uniform Guidance Procurement Policy.

### **3.8 Federal and State Law Compliance**

Federal law and North Carolina general statutes allow local policy to be more restrictive. When comparing federal, state, and local procurement requirements to implement federal programs or grants, the most restrictive requirement shall be applied. This policy is more restrictive regarding bid requirements of services and dollar thresholds for contractual signatures in comparison to state statute requirements. Periodically, legislation results in changes to law and/or general statutes. ~~This policy shall be automatically updated upon changes in general statutes referenced within this policy, except for bid requirements of services and dollar thresholds for contractual signatures.~~ The General Statutes referenced in this policy are incorporated by reference, and changes in the referenced General Statutes are also incorporated herein as if set out in full. <sup>[VE23]</sup>

## **4.0 IMPLEMENTATION**

The Finance Director is responsible for implementing and enforcing this Policy and to interpret it consistent with its spirit and intent, fiscal prudence and accountability. The Finance Director is authorized to prescribe additional administrative instructions for implementing the above policy.

### **ADDENDUM**

## **Uniform Guidance Procurement Policy for North Carolina Local Governments**

### **I. Purpose**

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

### **II. Policy**

**A. Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or

reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Cumberland County will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

### III. **General Procurement Standards and Procedures:**

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all

other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

- C. Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for Minority/Women Business Enterprises (M/WBE) Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

#### **IV. Specific Procurement Procedures**

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** except for Architectural/Engineering (A/E) professional services and **Purchase Contracts costing less than \$310,000** [VE24] shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
  - 1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
  - 2. To the extent practicable, purchases must be distributed among qualified suppliers.
  - ~~2.3.~~ The \$30,000 threshold for "micro-purchase" is allowed as long as the County qualifies as a low-risk auditee, in accordance with the criteria in §200.520 according to the most recent audit, self-certifies annually, and maintains documentation to be made available to the Federal awarding agency and auditors upon request. [VE25]
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$310,000** [VE26] **up to \$90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
  - 1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
  - 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
  - 3. Cost or price analysis is not required prior to soliciting bids.
  - 4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
  - 5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most

restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

**D. Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

**E. Construction and repair contracts costing less than \$310,000** [VE27] shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.
- 2.3. The \$30,000 threshold for “micro-purchase” is allowed as long as the County qualifies as a low-risk auditee, in accordance with the criteria in §200.520 according to the most recent audit, self-certifies annually, and maintains documentation to be made available to the Federal awarding agency and auditors upon request. [VE28]



**F. Construction and repair contracts costing ~~\$310,000~~ <sup>VE29</sup> up to \$250,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

**G. Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

**H. Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.

5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”

**I. Construction or repair contracts involving a building costing \$300,000 and above must comply with the following additional requirements under state law:**

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

**J. Contracts for Architectural and Engineering Services costing under \$250,000 shall be procured using the state “Mini-Brooks Act” requirements (G.S. 143-64.31) as follows:**

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

**K. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:**

1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).

5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

## V. Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

## 13. Request to Increase the Age in the Precharge Misdemeanor Diversion Program

### BACKGROUND

On September 1, 2016, Cumberland County entered into a Memorandum of Understanding with the Judges, District Attorney, Public Defender, Sheriff's Office, Fayetteville Police, Hope Mills Police, and Spring Lake Police to create and establish the Precharge Misdemeanor Diversion Program (MDP).

The purpose of the MDP is to divert first-time arrests or citations of sixteen and seventeen year-olds with no adult criminal record for misdemeanor charges except Class B misdemeanors, and any misdemeanor offenses involving sexual offenses, firearms violations, and traffic offenses. A

MDP representative employed with the Cumberland County Pre-Trial Services Department is responsible for administering the MDP program.

At that time North Carolina was one of only two states that prosecuted all 16 and 17-year-olds charged with criminal offenses in the adult system. Even when charges are dismissed, if the arrest and court records are not expunged, the incident and youth's record of arrest follows him or her into adulthood, creating significant impediments to employment and education. The direct and indirect (or collateral) consequences of an arrest in the adult legal system can also have an impact on public benefits, housing, licenses, and legal residency status. In 2017, Lawmakers passed Senate Bill 257, known as "Raise the Age" which raised the age of juvenile jurisdiction for non-violent crimes to age 18. Effective December 1, 2019, 16 and 17 year old individuals who commit crimes in North Carolina will no longer be charged in the adult criminal justice system.

Due to the legislation change, we are requesting approval to increase the age of the program from 16-17-year-olds to 16-21-years of age. This change would allow younger adults to be diverted for first time misdemeanor offenses which would give this population the opportunity to not have the direct and indirect consequences of an arrest.

#### RECOMMENDATION / PROPOSED ACTION

At the June 10, 2021 Agenda Session Meeting, the Board of Commissioners approved placing this request on the June 21, 2021 as a Consent Item for approval to increase the age of the program from 16-17 to 16-21 years of age based on the legislative change.

#### 14. Interlocal Agreement with City of Fayetteville to Install Sidewalk at North Regional Library

##### BACKGROUND

At its April 16, 2021, meeting, the Fayetteville-Cumberland County Liaison Committee took action to approve the installation of a sidewalk at the North Regional Library as a joint project of the City and County. The attached draft interlocal agreement to undertake the project has been approved by the city attorney. The drawing of the project and the temporary construction easement from the County to the City for the construction are attached. The interlocal agreement is for the City to design and install the sidewalk on the County's property with the City and County to share the cost, which is estimated at \$16,000 to \$25,000, and the County to be responsible for maintenance of the sidewalk thereafter.

At its June 10, 2021, Agenda Session, the Board took action to move this item to June 21, 2021, Agenda as a consent item.

#### RECOMMENDATION / PROPOSED ACTION

County attorney recommends the Board approve the interlocal agreement and authorize the county manager to sign it on behalf of the Board.

#### 15. New Vault Doorway for Register of Deeds and Budget Ordinance Amendment #B210338

##### BACKGROUND

The Cumberland County Register of Deeds has requested Engineering and Infrastructure Department (E&I) assistance in creating an opening in the Concrete Masonry Unit (CMU) wall located inside the Register of Deeds records vault.

The doorway would provide a secondary egress and allow public and attorney access to the records vault without having to utilize the main Register of Deeds entrance. During periods of peak foot traffic, the current entrance has the potential to become a bottleneck. We estimate this project to take forty-five (45) days to complete.

This process would require demolition and must take place after hours due to the noise, dust and safety implications.

The project would also require added measures of containment and security. We have received initial estimates averaging around \$62K with design and contingency.

If approved the E&I department will refine the estimates and seek a future budget amendment ordinance. The Register of Deeds has offered to utilize his Office's own funding, up to half of the proposed project costs.

#### RECOMMENDATION / PROPOSED ACTION

This item was heard at the June 10, 2021 Board of Commissioners' Agenda Session and was approved to move forward to the June 21, 2021 Board of Commissioners Regular Meeting as a Consent Agenda Item. Staff recommends moving forward with planning and design with 50% of total project costs to be funded from the County's CIP Fund not to exceed \$50K. Staff is seeking approval of Budget Ordinance Amendment #B210338 which establishes the project budget.

MOTION: Commissioner Adams moved to approve Consent Agenda Items 2.A. – 2.P.15 except for Item 2.P.9. as removed.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (4-0)

### 3. PUBLIC HEARINGS

#### A. Amendment to the Program Year 2021 Annual Action Plan

##### BACKGROUND

At the Board of Commissioners meeting held on May 3, 2021, the Board approved the submission of Community Development's Program Year 2021 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD). Recently, HUD increased the original Community Development Block Grant (CDBG) allocation and provided additional Home Investment Partnership Program (HOME) funds established through the American Rescue Plan (ARP) Act of 2021.

For the Program Year (PY) 2021, Cumberland County was originally allocated \$890,600 in CDBG funds and \$396,328 in HOME funds. These funds are used for programs and projects that benefit primarily low- and moderate-income residents for a given year. The Substantial Amendment to the Annual Action Plan will reflect the changes in allocations where Cumberland County is now expected to receive CDBG program funds in the amount of \$903,724 and the additional HOME-ARP funds in the amount of \$1,435,021. The additional HOME-ARP funds are to be prioritized for affordable housing, non-congregate shelter, and/or supportive services for specific populations.

The plan is available for public review and comment on Cumberland County's website and at the Cumberland County Community Development Department's office from June 16, 2021 – June 22, 2021.

#### RECOMMENDATION / PROPOSED ACTION

Community Development is requesting the Board of Commissioners to take the following actions:

- Hold a public hearing to allow for public comment on the PY 2021 Amendment to the Annual Action Plan; and
- Approve the submission of the plan to HUD.

\*\*\*\*\*

Dee Taylor, Community Development Director, presented the background information recorded above and responded to questions from Commissioner Adams and Chairman Evans about the timing of the comment period and the Board's action. Ms. Cannon asked Ms. Taylor to email any comments she received to the Board of Commissioners.

Chairman Evans opened the public hearing.

The clerk to the board stated there were no speakers.

Chairman Evans closed the public hearing.



MOTION: Commissioner Adams moved to approve submission of the plan to HUD.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (4-0)

- B. Revision and Amendment of Chapter 4 of the Cumberland County Code of Ordinances for the Purpose of Bringing the Ordinance into Compliance with the Newly Adopted Chapter 160D State Statutes

#### BACKGROUND

Staff is requesting the Board of County Commissioners review and consider a comprehensive text amendment to Chapter 4 of the Cumberland County Code of Ordinances to update ordinance standards and to bring the current ordinances into compliance with the recently adopted Chapter 160D State Statutes. Chapter 4 governs building inspections, building procedures, and minimum housing standards.

#### RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the text amendment. *[Chapter 4 amendment attached herein as Attachment A.]*

\*\*\*\*\*

Rawls Howard, Planning and Inspections Director, stated the ordinance was initially adopted in 1979 and amended the last time around 1998. Mr. Howard stated with the adoption of Chapter 160D, staff took the opportunity to update standards and cross references and to add standards for nonresidential construction that were part of Chapter 160D. Mr. Howard elaborated on nonresidential construction and minimum housing in the ordinance amendment and touched on how aspects of the building code relate to minimum housing standards. Mr. Howard stated this ordinance amendment exempts anything that would be exempted under the zoning ordinance so staff would not have the authority to take nonresidential action on any buildings deemed to be farm structures.

Chairman Evans opened the public hearing.

The clerk to the board stated there were no speakers.

Chairman Evans closed the public hearing.

In response to questions posed by Commissioner Keefe, Mr. Howard stated demolition orders will still be brought before the Board of Commissioners but with this amendment, there will be standards by which the Board can measure its decisions. Mr. Howard also stated county code enforcement operates primarily on a complaint basis but code enforcement officers have a certain amount of leeway to access a structure if something is self-evident or there is deemable proof.

MOTION: Commissioner Keefe moved to approve the text amendment to Chapter 4 of the Cumberland County Code of Ordinances.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (4-0)

#### Uncontested Rezoning Cases

- C. Case P21-27: Rezoning of 2.36+/- acres from R10 to C1(P) Planned Local Business District or to a more restrictive zoning district, located at 6234 Camden Road, submitted by Sharon A. Edwards (owner).

For the record, Ms. Cannon stated this case was deferred to August 16, 2021.

- D. Case P21-30: Zoning Regulations. Revision and Amendment to the Cumberland County Subdivision Ordinance in its Entirety for the Purpose of Bringing the Ordinance into Compliance with the Newly Adopted Chapter 160D State Statutes; Planning & Inspections Dept. (Applicant). *[Appendix B (Subdivision Ordinance) amendment attached herein as Attachment B.]*

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>

\*\*\*\*\*

Mr. Howard stated this is a supplement to the recently adopted Chapter 160D that addresses the subdivision ordinance. Mr. Howard stated no technical changes were made and the major changes include updating cross references to state statutes as appropriate and adding definitions taken directly from state statutes. Mr. Howard stated language was also added to the subdivision ordinance about staff conflicts of interest as contained in the recently adopted Chapter 160D.

Chairman Evans opened the public hearing for Case P21-30.

The clerk to the board stated there were no speakers for Case P21-30.

Chairman Evans closed the public hearing for Case P21-30.

In response to a question from Commissioner Adams about citizen notification for rezoning cases, Mr. Howard explained the county's notification process. Commissioner Adams stated there needs to be a conversation about doing more than required under state statute, such as expanding the area for mailed notices and installing larger signs on the subject property. Commissioner Adams stated he doesn't know whether it should be included in the ordinance, but he feels the county owes it to citizens to be sure they know what's about to happen that will have an impact on them.

**MOTION:** Commissioner Keefe moved in Case P21-30 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 Subdivision 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 (4-0)

#### Contested Rezoning Cases

E. Case P21-20: Rezoning of 12.61+/- acres from RR Rural Residential to R7.5 Residential/CZ Conditional Zoning for a 33 lot zero lot line subdivision or to a more restrictive zoning district, located on the west side of SR NC 87 (NC Hwy 87 S) and north of SR 2220 (Tom Starling Road), submitted by Eleanor Yates J. Bunnells, Eleanor R. Bunnells, Josephine P. Lyle, Charles J. Pate and Jessie M. Pate (owners) and Blayze DiPasquale on behalf of MeKee Homes, Inc. (agent).

For the record, Ms. Cannon stated this case was withdrawn by the applicant.

F. Case P21-28: Rezoning of 48+/- acres from A1 Agricultural District to R30 Residential District/CZ Conditional Zoning for up to 52 lot zero lot line subdivision or to a more restrictive zoning district, located South of Bainbridge Road between Mary McCall Road and John Nunnery Road, submitted by Molice Farms LLC (owner).

For the record, Ms. Cannon stated this case was deferred to August 16, 2021.

#### 4. ITEMS OF BUSINESS

A. Consideration of Proposed Lease of Certain Real Property to Easter Seals UCP of North Carolina and Virginia, Inc.

#### BACKGROUND

On May 17, 2021 the Board of Commissioners adopted a resolution of intent to lease and the required advertisement associated with the intent to lease certain real property to Easter Seals UCP.

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>

On June 2nd, The Cumberland County Manager was notified by Easter Seals UCP that effective immediately it was terminating its summer program due to a lack of staff. This led staff to review and revise the prior recommendation regarding the intent to lease.

#### RECOMMENDATION / PROPOSED ACTION

Staff recommends the following based on the most recent information provided to the County Manager by Easter Seals UCP concerning the termination of its summer program:

1. Rescind the May 17, 2021 resolution of intent to lease certain real property to Easter Seals UCP of North Carolina and Virginia, Inc.
2. Do not renew the proposed lease agreement with Easter Seals UCP of North Carolina and Virginia, Inc.

\*\*\*\*\*

Tracy Jackson, Assistant County Manager, presented the background information and recommendation/proposed action recorded above. Mr. Jackson recognized in attendance Cheryl Tuning, Easter Seals Chief Marketing Officer. Commissioner Adams asked whether just the summer program was being terminated or all programs. Ms. Cannon stated Easter Seals UCP hopes to open in September, but at this time there are no concrete plans because it depends on their ability to find staff. Commissioner Adams posed additional questions and stated without a lease, Easter Seals UCP is unable to secure renters insurance so the property needs to be patrolled to ensure there is no damage to their equipment/property while it is unoccupied.

**MOTION:** Commissioner Keefe moved to rescind the May 17, 2021 resolution of intent to lease certain real property to Easter Seals UCP of North Carolina and Virginia, Inc. and to not renew the proposed lease agreement with Easter Seals UCP of North Carolina and Virginia, Inc.

**SECOND:** Commissioner Council

**VOTE:** UNANIMOUS (4-0)

#### B. Consideration of Contract for Workforce Provider Services and Payment for Workforce Services

#### BACKGROUND

The North Carolina Department of Commerce – Division of Workforce Solutions (DWS) has performed an in-depth analysis of the services provided by the County's former workforce provider, Educational Data Systems, Inc. (EDSI), and has officially notified the County of its findings (see attached letter). In order to close-out Program Year 2019 (PY19), DWS has identified \$1,279,772.27 that should be paid by the County to EDSI. PY19 funding will expire June 30, 2021, and these funds will no longer be available to the County for workforce-related expenses after that date.

According to DWS a contract needs to be executed between the County and EDSI. A proposed contract was created by the County Attorney and sent to EDSI for review and approval. Attached is a copy of the proposed contract with a not-to-exceed amount of \$5,161,314. At this time however, staff is requesting payment of the DWS identified amount of \$1,279,772.27.

#### RECOMMENDATION/PROPOSED ACTION

Staff recommends the Board of Commissioners take the following actions:

1. Approve the contract with EDSI in an amount not to exceed \$5,161,314 and authorize the Chairman to sign the contract on behalf of the Board of Commissioners.
2. Approve payment to EDSI in the amount of \$1,279,772.27.

\*\*\*\*\*

Mr. Jackson presented the background information and recommendation/proposed action recorded above. Mr. Jackson stated the county was notified EDSI would approve the proposed contract. Mr. Jackson asked the Board to keep in mind that the \$5,161,314 goes back in time and captures all of the different programs and all of the different funding for the time period EDSI was providing

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>

services, so some of those funds have already expired, some have been deobligated and some have been paid. Mr. Jackson stated even though the not to exceed amount is in the proposed contract, the county is focusing on the \$1,279,772.27 payment. Rick Moorefield, County Attorney, stated his recommendation for the language approved be in an amount not to exceed \$1,279,772.27 because there are three programs identified in the contract for which State discretionary funds are used for funding and further payments will be made for those programs only to the extent sufficient State discretionary funds are made available to the county. Mr. Moorefield stated there is no hurricane money.

Commissioner Keefe asked what the result would be if the Board voted in opposition. Mr. Moorefield stated EDSI would likely sue the county because the DWS says the county should pay EDSI \$1,279,772.27. Mr. Moorefield stated the reason the contract is being amended is because the county has already paid EDSI funds budgeted in the contract in place when EDSI was providing services. In response to a question from Commissioner Adams, Mr. Moorefield stated the amendment EDSI agreed to sign incorporates July 2018 and runs through June. Additional questions followed.

**MOTION:** Commissioner Adams moved to approve the contract with EDSI in an amount not to exceed \$5,161,314 and authorize the Chairman to sign the contract on behalf of the Board of Commissioners and to approve payment to EDSI in an amount not to exceed \$1,279,772.27.

**SECOND:** Commissioner Keefe

**DISCUSSION:** In response to a question posed by Commissioner Keefe, Mr. Moorefield stated the reason he suggested that \$1,279,772.27 be a not to exceed amount was because there are three programs that are not WIOA funds but rather hurricane disaster money, grant money and other funds identified in the contract. Mr. Moorefield stated it is known that there is no hurricane money and for those three programs, payment will be dependent upon the State providing sufficient funding. Commissioner Keefe asked if this matter would be over. Mr. Moorefield stated this agreement is also a mutual relief settlement of all claims. Ms. Cannon stated in lieu of Mr. Moorefield writing a new contract, the county did as DWS instructed, so this is an amendment to the contract from 2018. Ms. Cannon stated the \$5,161,314 amount covers the services from 2018 through the end of 2020, and the county has already paid a lot of those funds or funding has expired. Ms. Cannon stated the county's desire was just to write a contract for \$1,279,772.27 but DWS wanted it to be a comprehensive contract which makes this a little confusing.

**VOTE:** UNANIMOUS (4-0)

#### C. Approval of Economic Development Incentive Agreement with Sky REM, LLC

##### BACKGROUND

On May 17, 2021, the Board of Commissioners approved the attached RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT FOR THE SALE AND DEVELOPMENT OF THE REMAINING PROPERTY IN THE CEDAR CREEK INDUSTRIAL PARK AND THE SANDHILLS ROAD SITE. That action approved the sale of the described land to Sky REM, LLC, a commercial developer, as an economic development incentive to develop the land for commercial purposes. The proposed agreement for the sale and development of this land as an economic development incentive is attached.

##### RECOMMENDATION / PROPOSED ACTION

County attorney recommends approval of the economic development incentive agreement with Sky REM, LLC.

\*\*\*\*\*

Mr. Moorefield presented the background information recorded above and pointed out that the incentive agreement tracks the language and conditions approved in the resolution.

MOTION: Commissioner Keefe moved to approve the economic development incentive agreement with Sky REM, LLC.  
SECOND: Commissioner Adams  
VOTE: UNANIMOUS (4-0)

D. Consideration of the Grant of a Utility Easement to the City of Fayetteville on Lot 9, Section I, Cumberland Industrial Center

BACKGROUND

The City has requested the attached utility easement on Lot 9, Section I, Cumberland Industrial Center. The easement is 40' in width along the southern boundary for 1,317' and 30' in width for 300' of frontage on Corporation Drive. The easement also includes a blanket access easement across the remainder of the property as reasonably determined by FPWC. The easement area contains 1.42 acres.

Industrial uses frequently fence the perimeter of the premises and do not accommodate blanket access upon the premises. The easement also grants management and control of the easement to FPWC. The county attorney advises that each of these issues may impact the marketability of this parcel for industrial uses.

RECOMMENDATION / PROPOSED ACTION

Due to the potential impact this easement will have on the marketability of the parcel, the county attorney recommends the Board to either sell the easement to the City at its fair market value, including the diminution of the value of the remainder caused by the blanket access, or refuse to grant the easement unless the blanket access and management and control by FPWC are removed.

\*\*\*\*\*

Mr. Moorefield presented the background information recorded above. Mr. Moorefield stated last fall the City began including language in agreements that stated easements will be under the exclusive management and control of the FPWC and other provisions to which the county has objected. Mr. Moorefield stated he finds the blanket easement objectionable, and his recommendation is to either sell the property to the City at its fair market value or refuse to grant the easement unless the blanket access and management and control by FPWC are removed.

Commissioner Adams stated if PWC is going to run a sewer line, it would basically improve the property but he feels the blanket easement should be removed because they only need the road frontage. Commissioner Adams stated the county should just grant the easement without the blanket access. Ms. Cannon stated this is part of the Liberty Point Sewer Project brought forward by Robert Van Geons, Fayetteville Cumberland Economic Development Commissioner CEO/President. Commissioner Keefe asked Mr. Van Geons whether the easement in any form would be an economic deal breaker or non-negotiable. Mr. Van Geons stated not on this particular site although it could be elsewhere.

MOTION: Commissioner Adams moved to grant the easement to FPWC with the blanket access removed.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (4-0)

E. SUSPENDED UNTIL AFTER CLOSED SESSION ITEMS 7.A. AND 7.B.

F. Designation of Voting Delegate to the 2021 NACo Annual Conference

MOTION: Commissioner Adams moved to appoint the chairman as the voting delegate and the vice chairman as the alternate voting delegate.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (4-0)



5. NOMINATIONS

A. Jury Commission (1 Vacancy)

Commissioner Adams nominated Scott Flowers.

B. ABC Board (1 Vacancy)

Commissioner Keefe nominated Harold Lee Boughman, Jr.

Commissioner Evans nominated Sonya Washington Edmonds.

6. APPOINTMENTS

A. Alliance Health Board of Directors (2 Vacancies)

MOTION: Commissioner Adams moved to appoint Dr. John Lesica and Vicki Evans to the Alliance Health Board of Directors.

SECOND: Commissioner

VOTE: UNANIMOUS (4-0)

B. Cumberland County Local Emergency Planning Committee (6 Vacancies)

MOTION: Commissioner Adams moved to appoint to the Cumberland County Local Emergency Planning Committee: Jared Thompson in the Print and Broadcast Media Representative category; Caleb Stoker in the Operators of Facilities Representative category; Trooper Robert Rhodes in the Law Enforcement Representative category; Marc Baker in the Emergency Management Representative category; Janet Larson in the Transportation Representative category; and Fire Chief Mike Hill in the Fire Fighting Representative category.

SECOND: Commissioner

VOTE: UNANIMOUS (4-0)

C. Transportation Advisory Board (1 Vacancy)

MOTION: Commissioner Adams moved to appoint Nicole Willingham to the Transportation Advisory Board in the category of Sheltered Workshop Director or Designee.

SECOND: Commissioner

VOTE: UNANIMOUS (4-0)

7. CLOSED SESSION:

A. Economic Development Matter(s) Pursuant to NCGS 143.318.11(a)(4)

B. Attorney Client Matter(s) Pursuant to NCGS 143-318.11(a)(3)

MOTION: Commissioner Adams moved to go into closed session for Economic Development Matter(s) Pursuant to NCGS 143.318.11(a)(4) and for Attorney Client Matter(s) Pursuant to NCGS 143-318.11(a)(3).

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (4-0)

MOTION: Commissioner Adams moved to come out of closed session.

SECOND: Commissioner Council

VOTE: UNANIMOUS (4-0)

3.E. Consideration of Contract to Engage Outside Counsel to Evaluate and Pursue Claims for Perfluorinated Compounds Environmental Contamination in Cumberland County

BACKGROUND

Pursuant to the Board's directive, the county attorney has obtained the attached attorney-client fee contract with the firms of Baron & Budd, P.C., Crueger Dickinson LLC, and Seagle Law to jointly represent the county in any potential claims for damages associated with Perfluorinated Compounds against the manufacturers and /or releasers of such compounds within or into Cumberland County. These firms have substantial experience in pursuing these claims around the country and specifically against Chemours. The essential terms of the contract are as follows:

1. The county attorney is designated as the county's authorized representative to communicate with the attorneys.
2. The attorneys will first investigate all potential claims and avenues of recovery and recommend whether and how to proceed. If the attorneys determine there is not a sufficient basis to proceed, the county will not owe the attorneys any fees.
3. The attorneys' fees will be contingent on recovery, at 15% of any recovery obtained prior to initiating a lawsuit and at 25% of any recovery after initiating a lawsuit.
4. From any amount recovered, the county will also reimburse the attorneys for all costs and expenses as detailed in the contract.
5. No fees will be collected from any source other than the recovery for damages.

At its June 10, 2021, Agenda Session, the Board took action to move this contract to the June 21, 2021, Agenda as an item of business.

RECOMMENDATION / PROPOSED ACTION

The county attorney recommends the Board approve this contract.

\*\*\*\*\*

Ms. Cannon presented the background information and recommendation/proposed action recorded above.

MOTION: Commissioner Adams moved to approve the contract.  
SECOND: Commissioner Keefe  
VOTE: UNANIMOUS (4-0)

MOTION: Commissioner Adams moved to authorize the chair or county manager to send the county's voting instructions on the Perdue Pharma L.P., bankruptcy plan to Prime Clerk in accordance with the recommendation of the national counsel group representing the county in the opioid litigation.  
SECOND: Commissioner Council  
VOTE: UNANIMOUS (4-0)

MOTION: Commissioner Council moved to adjourn.  
SECOND: Chairman Evans  
VOTE: UNANIMOUS (4-0)

There being no further business, the meeting adjourned at 8:30 p.m.

Approved with/without revision:

Respectfully submitted,

---

Candice H. White  
Clerk to the Board

Chapter 4 - BUILDINGS AND BUILDING REGULATIONS<sup>[1]</sup>

Footnotes:

--- (1) ---

**Cross reference**— Fire prevention and protection, Ch. 6.2; mobile homes, Ch. 8; solid waste, Ch. 11; subdivision regulations, App. B.

**State Law reference**— Authority of county to levy taxes for building inspection, G.S. 153A-149(c)(26); building inspection generally, § ~~153A-350~~ 160D-1101 et seq.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Title.

This chapter of this Code shall be and is collectively referred to and cited as "The ~~Technical Inspection~~ Building Ordinance of Cumberland County, North Carolina."

(Ord. of 2-22-79, § 2-1.1)

Sec. 4-2. - Purpose.

The purpose of this chapter is to provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and to regulate the equipment, maintenance, use and occupancy of all buildings and all structures. All regulations contained in this chapter shall have a reasonable and substantial connection with the public health, safety, morals or general welfare and their provisions shall be construed liberally to those ends.

(Ord. of 2-22-79, § 2-1.2)

Sec. 4-3. - Scope.

- (a) In addition to the requirements contained in this chapter all provisions contained in each of ~~the volumes of~~ the trade-specific codes of the North Carolina State Building Code, as amended, including the administrative sections, shall be incorporated by reference within this chapter, which may include, but not be limited to, are as the following:

<del>Volume I</del>	<del>General Construction</del> <u>North Carolina Building Code</u>
<del>Volume I-A</del>	<del>Administration and Code Enforcement</del> <u>North Carolina Administrative Code and Policies</u>

<del>Volume I-C</del>	<a href="#">North Carolina</a> Accessibility Code
<del>Volume II</del>	<a href="#">North Carolina</a> Plumbing <a href="#">Code</a>
<del>Volume III</del>	<a href="#">North Carolina</a> Mechanical <a href="#">Code</a>
<del>Volume IV</del>	<a href="#">North Carolina</a> Electrical <a href="#">Code</a>
<del>Volume V</del>	<a href="#">North Carolina</a> Fire Prevention <a href="#">Code</a>
<del>Volume VI</del>	<a href="#">North Carolina</a> Fuel Gas <a href="#">Code</a>
<del>Volume VII</del>	<a href="#">North Carolina</a> Residential <del>One and Two Family Dwellings</del> <a href="#">Code</a>
<del>Volume VIII</del>	<a href="#">North Carolina</a> Manufactured Home <a href="#">Code</a> <del>Modular Construction Requirements</del>
	<a href="#">North Carolina</a> Energy Conservation Code
	<a href="#">North Carolina</a> Existing Building Code

(b) The above shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures located in the county, except those types of buildings and equipment set forth in ~~Volume I-A~~ the [North Carolina State Administrative Code](#) ~~of the North Carolina State Building Code~~.

(Ord. of 2-22-79, § 2-1.3; Ord. of 8-16-93)

**State Law reference**— Building code, G.S. § 143-136 et seq.; technical ordinances, G.S. § 153A-47.

#### Sec. 4-4. - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them unless the context clearly indicates otherwise:

*Code.* The word "code" shall mean ~~the North Carolina State Building Code, unless a specific code name is used, in which case it shall mean the specific code referred to:~~ [any or all of the most current North Carolina trade-specific codes, including appendices, adopted by the North Carolina Building Code Council for the State of North Carolina and duly adopted by the Cumberland County Board of Commissioners.](#)

*Department.* The word "department" shall mean the Cumberland County [Planning and Inspections](#) Department unless a specific department is referred to.

~~*Inspector*~~*Public Officer.* The word "[public officer inspector](#)" shall mean the Cumberland County Director of [Planning and Inspections](#) or his authorized representatives.

*Territorial jurisdiction.* Unless otherwise specified by law, the territorial jurisdiction within which the ~~county inspections~~ department shall enforce the ~~North Carolina State Building Code (including plumbing, heating, air conditioning, ventilation and electrical regulations)~~ and the provisions of this chapter shall be all the unincorporated areas of Cumberland County and the incorporated limits of ~~the any towns of Stedman, Godwin and Falcon, North Carolina.~~ [municipality or county with which there is a standing mutual aid contract for services; in accordance with the provisions of said contract and within State law.](#)

(Ord. of 2-22-79, § 2-1.4; Ord. of 6-26-90, § 1)

**State Law reference—**~~Inspection department headed by superintendent or director of inspections~~[Building code administration](#), G.S. § ~~153A-351~~ [160D-1102](#); territorial jurisdiction of county building codes, G.S. § 143-138.

Sec. 4-5. - Licensed contractors.

Only persons duly licensed under the General Statutes of North Carolina or otherwise exempted under such statutes may be issued permits to perform only such work as they are entitled to under their respective license or exemptions.

(Ord. of 2-22-79, § 2-1.5)

Sec. 4-6. - Work on one's own property.

Any person may be permitted to perform work upon his own property, except property intended for rent, sale or gift, provided the person satisfies the appropriate ~~inspector~~ [public officer \(building, plumbing, mechanical or electrical\)](#) that he or she is knowledgeable in the specific work to be performed and code application. If so satisfied, the ~~inspector~~ [public officer](#) shall issue a permit to the applicant personally to perform the specific work for which application is made, subject to inspections and code requirements.

(Ord. of 2-22-79, § 2-1.5)

Sec. 4-7. ~~Registration of contractors.~~ [Reserved](#)

~~Every person engaged in building, plumbing, heating, mechanical or electrical contracting and building movers, within the territorial jurisdiction of the county, shall register at the office of the inspection department giving name, address and telephone number.~~

(Ord. of 2-22-79, § 2-1.6)

**Cross reference—**Licenses, taxes and business regulations, Ch. 7.



## Sec. 4-8. - Permit required.

- (a) No person may commence or proceed in the territorial jurisdiction of the county, ~~exclusive of municipalities therein~~, with:
- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building;
  - (2) The installation, extension, or general repair of any plumbing system;
  - (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system; or
  - (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or general repair of any electrical wiring, devices, appliances or equipment; without first securing from the ~~county inspection~~ department each permit required by the ~~State Building~~ Code and any other state law or county ordinance or regulation applicable to the work.
- (b) The following provisions shall control the issuance of ~~building~~ permits by the ~~inspection~~ department:
- (1) *Permit in writing.* A permit and applications thereof shall be in writing and shall contain a provision that the work done shall comply with the ~~State Building~~ Code and all other applicable state laws and county ordinances and regulations. In addition to the information required below, an application for a permit shall contain a certification in writing by the applicant indicating whether or not construction for which the permit is requested will take place on land that is part of a tract or parcel that has been previously subdivided or will be subdivided, as such term is defined in the county subdivision ordinance (Appendix B, Subdivision regulation, of ~~this~~ [the Code of County Ordinances](#)).
  - (2) *Identification of property.* No permit shall be issued unless the property, on which the work to be permitted is to be performed, is identified to the department by [street](#) address (~~street or rural box number~~) and by parcel identification number (PIN) assigned by the county tax assessor's office. Each permit issued shall have such address and PIN written thereon.
  - (3) *Plans and specifications required.* No permit shall be issued unless plans and specifications for the work for which the permit is required are submitted and such plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer.
  - (4) *Work by licensed specialty contractor.* If a provision of the General Statutes of North Carolina or of any ordinance requires that work done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. The name, address and license identification of the licensed specialty contractor will be provided in the application for such a permit and set forth in the permit when issued.

- (5) *No permit required for certain work.* No permit issued under Articles 9 or 9C of Chapter 143, General Statutes of North Carolina, shall be required for any construction, installation, repair, replacement, or alteration costing \$15,000.00 or less in any single-family residence or farm building unless the work involves the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the ~~North Carolina Uniform Residential Building~~ Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.
- (6) *Compliance with erosion and sedimentation control ordinance.* No permit shall be issued pursuant to this section for any work involving land distributing activity, ~~as defined in the county erosion and sedimentation control ordinance (Chapter 6 of the county Code),~~ unless an erosion control plan has been approved by the ~~county engineer~~ North Carolina Department of Environmental Quality in accordance with County ordinances or State laws, if applicable. ~~with the provisions of Chapter 6 for the site of such activity or a tract of land including the site of such activity.~~
- (7) *Compliance with subdivision ordinance.* No permit shall be issued pursuant to this section for any work on subdivided land, as defined in the County Subdivision Ordinance (Appendix B, Subdivision Regulations of the Cumberland County Code), unless such subdivision has been finally approved by the Cumberland County Planning and Inspections Department in accordance with the provisions of said ordinance, a plat thereof recorded in the County Registry and Parcel Identification Numbers (PINs) assigned to each lot in such subdivision.
- (8) *Compliance with flood damage prevention ordinance.* No permit shall be issued pursuant to this section for any work on land subject to the county flood damage prevention ordinance (Chapter 6.5 of the county Code), unless a development permit for such work has been issued by the county engineer in accordance with the provisions of Chapter 6.5.

(Ord. of 8-6-90, § 1; Ord. of 10-1-90, §§ 1, 2; Ord. of 8-6-90, § 1; Ord. of 8-23-94)

Sec. 4-9. - Oversight not to legalize violation.

No oversight or dereliction of duty on the part of any public officer ~~inspector~~ or official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein enforced.

(Ord. of 2-22-79, § 2-1.8)

Sec. 4-10. - Reserved.

**Editor's note**— An ordinance adopted Aug. 16, 1993, repealed § 4-10, which pertained to special provisions and derived from an ordinance adopted Feb. 22, 1979, § 2-1.9.

Secs. 4-11—4-25. - Reserved.

## ARTICLE II. - INSPECTION DEPARTMENT<sup>[2]</sup>

Footnotes:

--- (2) ---

**State Law reference**— County inspection department, G.S. § ~~153A-351~~ 160D-1102 et seq.

Sec. 4-26. - Composition.

The department shall consist of one or more qualified public officers ~~inspectors~~ and headed by a director of inspections pursuant to G.S. §§ 160D-1102 ~~153A-351 and 153A-351.1~~ and adequate clerical personnel. All personnel, in addition to the above requirements, shall be employed in a manner as prescribed by the county personnel ordinance.

(Ord. of 2-22-79, § 2-2.1)

**State Law reference**— Director of inspections as head of inspection department, titles of public officer ~~inspectors~~ designated, G.S. § 160D-1102 ~~153A-351~~.

Sec. 4-27. - Duties and responsibilities.

It shall be the duties of the ~~inspection~~ department to enforce all the provisions of this chapter and of the regulatory codes incorporated herein by reference; to make all inspections necessary to determine whether or not the provisions of this chapter and referenced codes are being complied with; to keep adequate records and collect permit fees as determined by the board of county commissioners; and to deliver same to the finance officer.

(Ord. of 2-22-79, § 2-2.2)

**State Law reference**— Similar provisions, duties and responsibilities of public officers ~~inspectors~~ generally, G.S. § ~~153A-352~~ 160D-1104; right of entry of members of ~~inspection~~ department, § ~~153A-360~~ 160D-1113.

Sec. 4-27.1. - Enforcement directives.

- (a) The ~~inspections~~ department ~~is~~ directed to enforce the North Carolina State Building Code and the ~~Technical Inspection Building~~ Ordinance of Cumberland County, North Carolina, codified as Chapter 4 of the Cumberland County Code, within the incorporated limits of ~~the~~ any municipality in Cumberland County upon any necessary action being taken by the County Board of Commissioners and the governing board of the municipality ~~Town of Faleon, North Carolina.~~
- (b) ~~The inspections department is directed to enforce the Ordinance of Cumberland County Regulating Abandoned, Derelict and Junked Motor Vehicles, codified as Article III of~~

~~Chapter 9 of the Cumberland County Code, within the incorporated limits of the Town of Faleon, North Carolina.~~

~~(Ord. of 6-26-90, §§ 2, 3)~~

~~**Editor's note**— Sections 2 and 3 of an ordinance adopted June 26, 1990, have been codified herein at the discretion of the editor as § 4-27.1.~~

Sec. 4-28. - Revocation of permits.

The ~~inspection~~ department may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation. Permits may be revoked for any substantial departure from the approved application, plans or specification, for refusal or failure to comply with the requirements of this chapter and referenced code of any other applicable state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of this County Code or any other applicable state or local law may also be revoked.

(Ord. of 2-22-79, § 2-2.3)

**State Law reference**— Similar provisions, G.S. § ~~153A-362~~ [160D-1115](#).

Sec. 4-29. - Civil remedies.

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land use is in violation of this chapter or referenced code, the county, in addition to other remedies, may institute any appropriate action or proceedings:

- (1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
- (2) To restrain, correct or abate such violation.
- (3) To prevent the occupancy of a building, structure or land.
- (4) To prevent any illegal act, conduct business or use in or about such premises.

(Ord. of 2-22-79, § 2-2.4)

**State Law reference**— Enforcement of ordinances by injunction and order of abatement, G.S. § 153A-123; injunction, G.S. § 1-485 et seq.

Sec. 4-30. - Copy of permits to county assessor.

A copy of every building, demolition, relocation and modular home permit issued by the inspection department pursuant to this chapter shall be sent to the county assessor. Site plans, if applicable, will be included in such submission.

(Ord. of 8-6-90, § 2; Ord. of 8-16-93)

Secs. 4-31—4-41. - Reserved.

### ARTICLE III. - PERMIT FEES<sup>[3]</sup>

Footnotes:

--- (3) ---

**State Law reference**— Building permits, G.S. § ~~153A-357~~ [160D-1110](#) et seq.

Sec. 4-42. - Intent.

It is the intent of this compilation to effect a fair and uniform schedule of fees to be charged for permits issued by the department.

(Ord. of 6-18-79)

Sec. 4-43. - Permits not valid.

No building, electrical, plumbing, mechanical, miscellaneous or other permit issued by the ~~inspection~~ department shall be valid until fees, as prescribed by this chapter, shall have been paid to the county and evidence of such payment is marked on the face of such permit.

(Ord. of 6-18-79)

Sec. 4-44. - Permit fees for work commenced prior to obtaining permits.

In all cases where building, construction, electrical, plumbing, mechanical or other work for which a permit is required, is commenced before such permit is obtained, except where specified permission is granted to proceed by the ~~inspection~~ department, any permit fee due the county for a permit for such work shall be twice the amount of the regular permit fee specified herein which would have been due had such permit been obtained prior to commencing work.

(Ord. of 6-18-79)

Sec. 4-45. - Extra inspections.

The fees entitle the contractor or applicant to the necessary rough-in inspections and one final inspection. Extra inspections or inspection trips made necessary through the failure of any person in charge of work to give specific locations of work to be inspected or failure to install work according to code regulations are hereby designated "extra inspections."

(Ord. of 6-18-79)

Sec. 4-46. - Scope.



Schedules of permit fees for work conducted under the authority of the Code are provided by this article. ~~building, insulation, plumbing, mechanical and electrical are as provided in this article.~~

(Ord. of 2-22-79, § 2-3.1)

Sec. 4-47. – Permit Fee schedule—~~Building, insulation and zoning.~~

- (a) ~~*Building.*~~ Building inspection Permit fees for the construction, alteration, or repair of buildings or structures shall be based upon a fee schedule adopted by the Board of Commissioners as a part of each fiscal year's budget ordinance. ~~the total cost of the proposed work, including any subcontractors. However, In the instance whereby a building fee is calculated based upon a per square foot calculation for work in the fee schedule, the~~Southern Building Code Congress most recent International Code Council Building Valuation Data, published biannually as amended, shall serve as the minimum acceptable cost per square foot for such work. In no case shall the total cost be less than the market value of similar completed work in the county as determined by the appropriate public officer inspectors. ~~Inspection fees shall be calculated on total cost in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- (b) ~~*Insulation.*~~ ~~Fees shall be based on the total cost of the insulation job, including new and existing buildings. The fees entitle the contractor or applicant to the necessary rough in inspections and one final inspection. The fee for such inspections shall be charged according to a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- (c) ~~*Zoning.*~~ ~~Zoning permits shall be required for the following where located in the zoned areas of the county: New structures, additions, signs, swimming pools and mobile homes. The fee for zoning permits shall be set by a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- (d) ~~*Signs—Outdoor advertising display signs.*~~ Sign permit fees shall be in accordance with the schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.
  - (1) ~~Note: When making application for a sign permit, submit a design and stress diagram or plan to the department.~~
  - (2) ~~Exemption. No permit shall be required for a shingle sign over a show window or door of a store or business establishment announcing, without display or elaboration, only the name of the proprietor and nature of the business; nor shall a permit be required for a ground sign advertising for sale or rent properties, providing such sign is not over 15 feet square in area.~~
- (e) ~~*Moving of buildings, all types.*~~ The fee for moving buildings shall be set according to a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.
- (f) ~~*Extra inspection fee (call-backs).*~~ The above fees entitle the contractor or applicant to the necessary rough in inspections and one final inspection. ~~Extra inspections or inspection trips~~

~~made necessary through the failure of any person, firm or corporation, in charge of work, to give specific locations of work to be inspected or failure to install work according to code regulations, are hereby designated "extra building inspections." The fee for such extra inspections shall be set by a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

- ~~(g) *Demolition of buildings.* The fee for demolition of buildings shall be set according to a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

(Ord. of 2-22-79; Ord. of 6-18-79, § 2-3.1; Ord. of 9-16-81; Ord. of 8-6-90, §§ 3, 4; Ord. of 8-16-93)

**~~Cross reference~~**—Mobile homes, Ch. 8.

Sec. 4-48. ~~Same~~—Plumbing permits. [Reserved.](#)

~~Plumbing permit fees shall be charged in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

(Ord. of 2-22-79; Ord. of 6-18-79, § 2-3.2; Ord. of 9-16-81; Ord. of 8-16-93)

**~~Cross reference~~**—Mobile homes, Ch. 8.

Sec. 4-49. ~~Same~~—Mechanical permits. [Reserved.](#)

- ~~(a) *Heating system.* Permit fees for the installation or replacement of the following types of heating equipment: Furnaces (electric, oil or gas), boilers, conversion burners, heat exchangers, hot water systems (based on the Btu input of each unit), shall be in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

~~Note: One kilowatt equals 3,410 Btu's.~~

- ~~(b) *Central air conditioning systems and refrigeration.* Installation and replacement fees shall be set by a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- ~~(c) *Heat pumps.* Permit fees for installation or replacement of this type unit shall be in accordance with subsection (b), provided the heating and cooling equipment is in the same enclosure (factory assembled and approved).~~

~~Exception: If the system is split (contained in separate enclosures), permit fees shall be in accordance with subsection (a) for heating and subsection (b) for cooling.~~

- ~~(d) *Heat producing equipment.* Permit fees for the installation or replacement of heat producing equipment, including, but not limited to, floor furnaces; space, unit or wall heaters; prefabricated fireplaces; fireplace inserts and wood stoves, shall be set in~~

~~accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

- ~~(e) *Gas piping and fireplaces.* Permit fees for installation or replacement shall set in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- ~~(f) *Mobile homes.* Permit fees for the installation or replacement of central air conditioning equipment, furnaces (electric, oil or gas) and heat pumps shall be in accordance with subsections (a), (b) and (c) of the mechanical permit fee schedule (this section).~~
- ~~(g) *Hood and canopies over cooking areas, commercial.* The fee for hood and canopies shall be set in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- ~~(h) *For any mechanical permit.* The fee for any mechanical permit shall be set in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~
- ~~(i) *Extra inspections (call-backs).* The fees entitle the contractor or applicant to the necessary rough in inspections and one final inspection. Extra inspections or inspection trips made necessary through the failure of any person, firm or corporation, in charge of work, to give specific locations of work to be inspected or failure to install work according to Code regulations, are hereby designated "extra mechanical inspections." The fee for each such extra inspection shall be set in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

(Ord. of 2-22-79; Ord. of 6-18-79, § 2-3.3; Ord. of 9-16-81; Ord. of 8-6-90, § 5; Ord. of 8-16-93)

~~**Cross reference**—Mobile homes, Ch. 8.~~

Sec. 4-50. ~~Same—Electrical permits.~~ Reserved.

~~Fees shall be charged for each electrical permit as set in accordance with a fee schedule adopted by the county commissioners as a part of each fiscal year's budget ordinance.~~

(Ord. of 2-22-79; Ord. of 6-18-79, § 2-3.4; Ord. of 9-16-81; Ord. of 8-16-93)

~~**Cross reference**—Mobile homes, Ch. 8.~~

Sec. 4-51. - Exemption from payment of fees.

No unit, department or agency of county government or of the county board of education shall be required to pay any fee provided in this article if the work to be performed is going to be performed by county staff or by school board staff.

(Ord. of 8-6-90, § 6; Ord. of 8-16-93)

Secs. 4-52—4-65. - Reserved.

ARTICLE IV. - MINIMUM HOUSING AND NONRESIDENTIAL BUILDING CODE<sup>[4]</sup>

Footnotes:

--- (4) ---

**Editor's note**— An ordinance adopted June 15, 1998, was treated as superseding §§ 4-66—4-70, 4-81—4-86, and 4-101—4-113, which contained similar provisions and derived from an ordinance adopted Oct. 20, 1980; a resolution adopted Dec. 4, 1989; and ordinances adopted June 25, 1991; Mar. 16, 1992; and Oct. 27, 1992.

**Cross reference**— Fire prevention and protection, Ch. 6.2.

**State Law reference**— Authority to adopt minimum housing and nonresidential building standards, G.S. § ~~160A-441 et seq.~~

160D-1129 and 160D-1201.

## DIVISION 1. - GENERALLY

Sec. 4-66. - Finding and purpose.

~~Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in this county dwellings unfit for human habitation and which are inimical and/or detrimental to the public welfare in their present conditions. These conditions include, but are not limited to, dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation or light, lack of safely maintained sanitary facilities, accumulations of garbage, trash and/or rubbish on the premises, or overgrowth adversely affecting the health, safety and/or well-being of the occupants and others. In accordance with North Carolina General Statutes, Chapter 160A, Article 19, Part 6, the purposes of this article are to establish minimum standards of fitness for dwellings and environs for the initial and continued occupancy of all places of abode in the county, to provide for the rehabilitation or demolition of all structures designed or utilized for such purpose but now found to be substandard or unfit under the terms of this article, and to impose requirements upon owners and occupants for maintaining these minimum standards.~~

(Ord. of 6-15-98)

(a) Pursuant to N.C. G.S. § 160D-1201, it is hereby found and declared that there exist in the County dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, accumulations of garbage, trash and/or rubbish on the premises, or overgrowth adversely affecting the health, safety and/or well-being of the occupants, or other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical harmful to the welfare of the residents of the County.

(b) Pursuant to N.C. G.S. § 160D-1129, The County further finds that there exists within the County non-residential buildings and structures that appear to be dilapidated, vacant or abandoned and to be in such a condition as to cause or contribute to blight, disease,

vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities.

- (c) In order to protect the health, safety and welfare of the residents of the County it is the purpose of this ordinance to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D-1205.
- (d) The provisions of this Chapter shall apply to all residential and non-residential buildings and structures within Cumberland County as now or hereinafter affixed.
- (e) The provisions of this Chapter shall not apply to any structure exempt from regulations under the Cumberland County Zoning Ordinance and as otherwise exempt by statute or other applicable laws.

#### Sec. 4-67. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article.

*Accessory building* means a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or on a contiguous lot.

*Agent* means any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property; or who makes application for, or seeks a permit on behalf of, the owner of any property; or who in any other way represents the owner of the property in any particular case.

*Alter or alteration* means any change or modification in construction or occupancy.

*Apartment house* means any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other in dwelling units.

*Basement* shall mean a story with 50 percent or more of its cubical content below finish grade.

*Building* means 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 some definite manner. The term "building" shall be construed as if followed by the words "or part thereof."

*Ceiling height* means the clear vertical distance from the finished floor to the finished ceiling.

*Common area* means all areas which were conveyed to a homeowners' association in a townhouse development, condominium, cooperatives or planned unit development.

*Demolish* means the demolition and removal of the entire building, leaving the property free and clear of any debris, and without holes or pockets which may retain water.

*Dwelling* means any building, mobile home, structure or portion thereof, which is designed or intended to be used for human habitation, including living, sleeping, cooking, eating, working or any one combination thereof, whether occupied or vacant, or which in fact is used for such human habitation, whether or not such use is regular or intermittent or authorized or



unauthorized. Such definition shall include accessory buildings but shall not include temporary housing as herein defined.

*Exit* means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

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

*Family* means an individual; two or more persons related by blood, marriage or law, or a group of not more than any five persons living together in a dwelling unit.

*Garbage* means the animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including the minimum amount of liquid necessarily incidental thereto.

*Garbage receptacle* means ~~Garbage shall be stored in~~ a durable, rust resistant, non- absorbent, watertight, and rodent proof container ~~and easily cleanable container~~ with a ~~close fitting~~, insect tight ~~cover lid~~. ~~Container must be~~ That is large enough to contain ~~one full a~~ week's worth of refuse, unless more than one receptacle is used. ~~that must be lawfully discarded weekly~~. (Ord. of 4/16/12)

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

*Hearing officer* means the ~~assistant director~~ public officer or his designated agent.

*Housing* (See "Dwelling").

*Impervious to water* (as to floors) means a clean, smooth floor, without cracks or holes, made of terrazzo, ceramic, asphalt or rubber tile, smooth concrete, linoleum or other similar material, or made of wood, and, if made of wood, then with tightly fitting joints, covered with varnish, lacquer or other similar water-resistant coating.

*Infestation* means the presence within or around housing of any insects, rodents or other pests in such numbers as to constitute a threat or deterioration to the housing or a hazard to the health or physical well-being of the occupants.

~~*Inspectors* means the assistant director of inspections or any agent or employee whose assigned duties include the enforcement of provisions of this code.~~

*Manufactured home* means a manufactured building designed to be used exclusively as a single-family dwelling, which has been constructed and labeled indicating compliance with the Department of Housing and Urban Development (HUD) administered national Manufactured Housing Construction and Safety Act of 1974, as amended.

(Ord. of 4/16/12)

*Multifamily housing* means a building or structure occupied or intended for occupancy as the home or residence of more than two families, living independently of each other, and doing their own cooking within their respective housing units.

*Non-residential building means any agricultural, commercial, industrial, institutional, public or other building not occupied as a dwelling, including hotels and motels.*

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

*Owner* means and includes a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

*Parties of interest* means all individuals, associations, partnerships, corporations, and others who have interest in a dwelling and any who are in possession or control thereof as agent of the owner, as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he was the owner.

*Person* means and includes any individual, firm, corporation, association or partnership.

*Plumbing system* means and includes the water supply and distribution pipes, plumbing fixtures, supports and appurtenances; soil, waste, and vent pipes; sanitary drains and building sewers to an approved point of disposal.

*Premises* means a lot, plot, or parcel of land, including the buildings or structures thereon.

*Public areas/space* means that space within or about any structure which is open to use or access by the general public.

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

*Public officer means the Director of Planning and Inspections, or his or her designee, or any agent or employee whose assigned duties include the enforcement of provisions of this code.*

*Removal* means the demolition and removal of the entire structure, leaving the property free and clean of debris, and without holes or pockets which may retain water.

*Residential building* means any building or structure, or portion thereof, which is used, or designed or intended to be used, for human habitation, including living, sleeping, cooking and eating or any combination thereof.

*Rooming house* means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not members of the family of the owner or operator.

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

*Rubbish* means combustible and noncombustible waste materials, except garbage. The term shall include, but not be limited to, combustible material, wood, paper, rags, cartons, boxes, tires, mattresses, tree branches, yard trimmings, metals, glass, crockery, furniture or appliances stored in the open which are not intended for outdoor use, and including immobilized vehicles or parts thereof.

*Story* means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above.

*Structure* means 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 some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

*Substandard* means any condition existing in any housing or structure which does not meet the standards of fitness of this code.

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

*Tenant* means a person, co-partnership, firm or corporation occupying or using a building, premises or any part or parts thereof owned by another.

*Unfit for human habitation* means any of those certain conditions that exist as set forth under section 4-86.

*Ventilation* means the adequate supply and removal of air to and from a space through windows, skylights, doors, louvers, grills, ducts or other similar devices.

*Words having certain meanings.* Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this article, they shall be construed as though they are followed by the words "or any part thereof."

(Ord. of 6-15-98)

Sec. 4-68. - Conflict with other provisions.

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

(Ord. of 6-15-98)

Sec. 4-69. - Duties of ~~assistant director of inspections~~ public officer.

The ~~assistant director of inspections~~ public officer is hereby designated ~~the public officer~~ to exercise the powers herein prescribed. The ~~assistant director~~ public officer shall have such powers as may be necessary to carry out and effectuate the purpose and provisions of this chapter, including, without limiting the generality of the foregoing, the following powers in addition to others herein granted:

- (1) To investigate, inspect, and determine which buildings, dwellings, or dwelling units are substandard and/or unfit for human habitation, and those which pose an imminent threat of bodily harm to occupants of a building, dwelling, or a dwelling unit, or any person upon the premises.

- (2) To take such action alone or together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation or removal of ~~buildings housing~~ which ~~is~~ are substandard and/or unfit.
- (3) To take such action alone or together with other appropriate departments or agencies, public and private, as may be necessary to eliminate ~~noxious~~ vegetation over-growth, clear unauthorized dump sites, or correct other environmental conditions which are inimical to public well-being and prevents harboring of rodents, insects, other similar pests.
- (4) To serve as hearing officer, administer oaths and affirmations, examine witnesses and receive evidence.
- (5) To enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in accordance with this article and state law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
- (6) To appoint and fix the duties of such officers, agents and employees as necessary to assist in carrying out the purposes of this article and to delegate any of ~~his~~ their functions and powers to such officers, agents and employees.
- (7) To determine that ~~residential-dwellings~~ buildings and accessory structures are substandard and/or unfit for human habitation if ~~he~~ the public officer finds, on the basis of the requirements set forth in this article, that conditions exist in such structures or accessory structures which are dangerous or injurious to the health, safety or well-being of the occupants of such building, the occupants of neighboring buildings, or other residents of the county and environs. Such conditions include, but are not limited to, lack of adequate ventilation, light or sanitary facilities; dilapidation, disrepair, structural defects and uncleanness.
- (8) Except as may otherwise be provided by statute or local law or ordinance, no public officer, agent or employee of the county charged with enforcement of the minimum housing and nonresidential code of the county shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. No person who institutes or assists in the prosecution of a criminal proceeding under this article shall be liable for damages hereunder unless he acted with malice and without reasonable grounds for believing that the person accused was guilty of an unlawful act or omission.

(Ord. of 6-15-98)

Sec. 4-70. – Board of Adjustment to serve as housing appeals board.

The Cumberland County Board of Adjustment shall serve as the body to which appeals may be taken from decisions or orders of the public officer as provided in section 4-84. The board shall perform the duties prescribed by this division and shall keep an accurate record of all its proceedings.

(Ord. of 6-15-98; Ord. of 5-17-21)

## DIVISION 2. - MINIMUM STANDARDS AND REQUIREMENTS

## Sec. 4-71. - Compliance.

~~Dwellings and dwelling units used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation. All owners and occupants shall comply with the requirements of this article so as to maintain these standards. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which violates this article. Outbuildings and appurtenances are included in these standards. Structures not meeting these standards shall be demolished and removed from the premises or rehabilitated.~~

(a) Every building, dwelling and dwelling unit used as a human habitation, or held out for use as human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sec.4-72 through Sec.4-79 of this ordinance. No person shall occupy as owner- occupant, or let to another for occupancy or use as a human habitation, any building, dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sec.4-72 through 4-79 of this ordinance.

(b) A public officer may declare a non-residential building or structure to be unsafe if it appears to the public officer to be dilapidated, vacant or abandoned, and it appears to be in such a condition to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(Ord. of 6-15-98)

## Sec. 4-72. - Space and use standards.

The following shall constitute the minimum standards for residential and non-residential buildings and shall be pertinent in determining fitness for human habitation or occupation:

- ~~(1) There shall be at least one habitable room with at least 150 square feet of floor space. Other habitable rooms shall have an area not less than 70 square feet, except that kitchens may have 50 square feet. Every dwelling or dwelling unit shall contain the minimum room size for each habitable room or space as required by the NC Residential Building Code as amended, or the Code in effect at the time of construction, whichever is least restrictive. All rooms and spaces that are intended to be occupied at different time for different purposes within non-residential building shall meet the NC Building Code as amended, or the Code in effect at the time of construction, whichever is least restrictive.~~
- ~~(2) Those habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven feet. That portion of any room where the ceiling height is less than five feet shall not be considered in the required floor area.~~



- (3) No basement or cellar shall be used as a habitable room or space ~~housing unit~~ unless:
- a. The floors and walls are impervious to leakage of underground and surface runoff water and insulated against dampness and condensation.
  - b. The total window area in each room meets the requirements of section 4-77 or, if only one exit egress door is provided, the requirements of section 4-73(a).
  - c. Ceiling heights shall be equal to those required for habitable rooms.
  - d. There is at least one exit egress door, with a minimum horizontal opening of not less than thirty-six inches 36" and a vertical opening of not less than six foot, eight inches 6'8".
- (4) ~~No cellar shall be considered a habitable area.~~
- (5) (3) There shall be installed in every dwelling unit, outside ~~any~~ every sleeping area, at least one operable smoke detector with audible alarm. The alarm shall emit not less than 85 decibels at ten feet. The detector shall be located on or near the ceiling and installed in accordance with the manufacturer's instructions and applicable state codes.
- a. ~~Detectors in structures built prior to 1975 may be powered by self-monitored batteries. All other detectors shall be wired directly to the power supply.~~
  - b.a. The owner shall be responsible for maintenance and replacement of the detectors; however, the tenant may not remove or render a smoke detector inoperable.
  - e.b. There shall be installed a minimum of one operable carbon monoxide detector on every level of any dwelling unit that is rented to a tenant. The carbon monoxide detector may be either battery operated or wired into the electrical circuit, shall be listed by a nationally recognized testing laboratory, and shall be installed in accordance with either the standards of the NFPA or the minimum protection designated in the manufacturer's instructions. A carbon monoxide detector may be combined with detectors if the combination detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between the presence of carbon monoxide and the presence of smoke. This section only applies to dwelling units having a fossil-fuel burning heater, appliance, or fireplace and in any dwelling having an attached garage. Any operable carbon monoxide detector installed prior to January 1, 2010 shall be deemed to be in compliance with this section. (Ord. of 4/16/12)
- ~~(6)~~(4) All appliances supplied by the property owner shall be maintained in good repair and operation.
- ~~(7)~~(5) Access shall be provided to all rooms within a dwelling unit without passing through a public space. Rooming houses are exempt from this subsection.
- ~~(8)~~(6) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms, and all rooms adjoining a public space. Toilet and bath room doors shall have an operable privacy lock.
- ~~(9)~~(7) Manufactured homes placed, erected or located on any parcel or lot, must have been constructed after July 1, 1976 and meet or exceed the standards promulgated by

the United States Department of Housing and Urban Development that were in effect at the time of construction in order to qualify for any permits. In addition all manufactured homes shall be provided with skirting materials that is acceptable for exterior construction. Skirting materials shall be durable and suitable for exterior exposures. Any wood framing used in support of skirting shall be approved pressure treated wood. Manufactured ~~skirting~~ skirting material shall be installed in accordance with the skirting manufacturer's requirements. The skirting requirement shall apply to all manufactured homes sited after the date of the adoption of this subsection. All existing manufactured homes shall be brought into compliance with this skirting requirement on or before July 1, 2013. (Ord. of 4/16/12)

(Ord. of 6-15-98)

#### Sec. 4-73. - Exit standards

- (a) Each dwelling or dwelling unit ~~must~~ shall be provided with two ~~remote~~ exits egress doors, one of which ~~is at least 36 inches wide and six feet, eight inches high~~ shall have a minimum horizontal opening of not less than thirty-six inches 36" and a vertical opening of not less than six foot, eight inches 6'8", ~~easily~~ and accessible to the occupants of each housing unit. All exit egress doors shall be ~~easily~~ operable and lockable. ~~If only~~ In instances where only one exit egress door can be provided, then each sleeping room must have at least one openable window approved for emergency egress. The window must be operable from the inside without the use of a special key or tool. The bottom of the windowsill ~~height~~ shall not exceed ~~44~~ forty-four inches 44" above the finished floor. Such window shall provide a minimum clear opening width of ~~20~~ twenty inches 20" and a minimum clear opening height of ~~22~~ twenty-two inches 22". The total net clear opening shall not be less than four square feet. Bars, grills, or other obstructions placed over these windows must be releasable or removable from the inside without the use of a special key or tool.
- (b) Platforms and/or steps shall be provided to serve exits and shall be maintained in a safe condition and in accordance with section 4-78(g) and (h) of this article.
- (c) Safe, continuous and unobstructed exits shall be provided from the interior of the structure to the exterior at street or grade level.

(Ord. of 6-15-98)

#### Sec. 4-74. - Plumbing standards

- (a) Every dwelling or dwelling unit shall be connected to an approved water supply and sewage disposal system.
- (b) Every dwelling or dwelling unit used or intended for use as human habitation shall have an enclosed bathroom and toilet facilities complete with water closet, tub or shower and

lavatory, and shall also have a kitchen sink, all of which shall be connected to approved water and sewer systems.

- (c) There shall be running water installed inside each ~~residential building~~ dwelling or ~~each~~ dwelling unit, with unimpeded flow to each outlet.
- (d) There shall be separate toilet facilities for each dwelling or dwelling unit.
- (e) Water-heating ~~facilities~~ systems shall be provided which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water line to each tub, shower, lavatory, kitchen sink, washing machine, and/or any other supplied plumbing fixture and are capable of supplying water at a temperature of not less than 120 degrees Fahrenheit. Such supplied water-heating ~~facilities~~ systems shall be capable of operating independently of the space-heating equipment.
- (f) All fixtures shall be in proper working condition with no leaks ~~existing~~.
- (g) No fixtures shall be cracked, broken or badly chipped.
- (h) Hopper bowl toilets are hereby prohibited.
- (i) Access to toilet and bathing facilities shall be through a weather-tight area without going outside the building.
- (j) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water so as to permit such floor to be readily kept in clean and sanitary condition.
- (k) All water ~~pipng~~ supply lines shall be protected from freezing by approved methods.
- (l) ~~At least one three-inch minimum size plumbing vent shall be properly installed for each building. All plumbing waste-water lines and vents shall be installed meeting the NC Plumbing Code, as amended, or the Code in effect at the time of construction, whichever is least restrictive, and maintained in proper working order free from leaks, broken lines, and stoppages at all times.~~
- (m) ~~Sewer and water lines shall be properly supported with no broken or leaking lines.~~
- (n) (m) Water closets shall be properly connected to a cold-water supply line.

(Ord. of 6-15-98)

#### Sec. 4-75. - Heating standards

~~1. — The installation or use of more than one portable heating appliance shall not be construed as meeting the standards for heating of an occupied dwelling.~~ (Ord. of 4/16/12)

- (a) Every building and dwelling unit shall be weatherproof and capable of being adequately heated. The heating equipment in every dwelling or dwelling unit shall be maintained in ~~a safe workable~~ proper working condition order at all times.
- (1) Every central or electric heating system shall be properly installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in ~~occupied housing~~ every

dwelling or dwelling units to a temperature of at least 68 degrees Fahrenheit at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.

- (2) Where a central or electric heating system is not provided, each dwelling or dwelling unit shall be provided with sufficient fireplaces, chimney flues, or gas vents whereby heating appliances may be properly connected so as to furnish a minimum temperature of 68 degrees Fahrenheit at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- (3) All gas and oil burning equipment installed on the premises shall be of a type approved and installed in accordance with the provisions of the state building code and any other applicable codes.
- (b) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the state building code and any other applicable codes.
- (c) Chimneys shall be tight, safe, and capable of maintaining proper draft of combustion byproducts to outside air.
- (d) No holes shall be permitted in the flue except for necessary vent connections and cleanout doors.
- (e) All existing ~~hanging~~ masonry chimneys that are not properly attached to the structure shall be removed or reattached in accordance with the provisions of the most currently adopted State residential building code and any other applicable codes.
- (f) Thimbles shall be grouted in tightly.
- (g) Thimbles shall be located high enough to provide proper draft for the heating appliance served thereby.
- (h) Fireplace(s) shall be used only for supplemental heat and not for primary heating and shall have no loose mortar or damaged firebrick.
- (i) Hearths shall be of noncombustible material and shall extend at least 12 inches beyond the face and six inches beyond each side of the fireplace opening.
- (j) No combustible materials shall be permitted within seven inches of the top and seven inches on either side of the fireplace opening.
- (k) No combustible material shall be located within six inches of the thimble.

(Ord. of 6-15-98)

Sec. 4-76. - Electrical standards.

- (a) Every dwelling and dwelling unit shall be wired for electrical lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles installed in accordance with the state building code. At least one fixed in place ceiling or wall type electric light fixture shall be provided in every bedroom, toilet room, bathroom, laundry room, furnace room, public hall, basement or any other area in which artificial light is required for the safety and welfare of the occupants. A switched wall receptacle shall be acceptable in a bedroom, living room or den.

- (b) All receptacles, ceiling fixtures or other fixtures shall be securely attached.
- (c) All switches and fixtures shall be safely operable or sealed off and disconnected.
- (d) No flexible cords shall be used as a substitute for the fixed wiring of a structure, nor run through holes in walls, ceiling or floors; through doorways, windows or similar openings; attached to building surfaces, or concealed behind building walls, ceilings or floors.
- (e) Fuses, circuit breakers, or branch circuits shall be properly sized and maintained in accordance with the provisions of the most currently adopted National Electrical Code and any other applicable codes ~~installed properly~~.
- (f) Every public hall and stairway in every multifamily dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to residential occupancy, containing not more than four dwelling units, may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of full-time lighting. Lights at entrances and exits are required.
- (g) All electric wiring, devices, appliances and fixtures shall be installed and maintained in accordance with ~~the state building code~~ the provisions of the most currently adopted National Electrical Code and any other applicable codes ~~and none shall be dangerous or hazardous~~.

(Ord. of 6-15-98)

Sec. 4-77. - Light and ventilation standards

- (a) Every habitable room ~~in a dwelling or dwelling unit~~ shall ~~contain a window or windows facing outside and the total glass area of such window or windows shall not be less than eight percent of the floor area of such room. Windows shall be maintained in accordance with section 4-78(e)~~ have an aggregate glazing area of not less than 8 percent of the area of such room. Natural ventilation shall be through windows, skylights, doors, or other approved openings to the outside air. Such openings shall be easily accessible and controllable by the occupants of the room. The openable area to the outdoors shall be not less than 4 percent of the floor area being ventilated.
- (b) Openable windows, skylights, doors, or other approved openings that have been installed to meet the foregoing requirement shall be properly screened and alone or combined meet the minimum 4 percent clear opening requirement for ventilation of the room. ~~area in each habitable room shall be equal to at least one-half of the minimum required window area and open directly to the outside unless the room is served by an approved ventilating system.~~ This requirement does not apply to emergency egress windows from sleeping rooms as required in section 4-73(a).
- (c) ~~All operable and openable windows shall be adequately screened.~~ Screens shall not be permanently fixed to the window frame or sash. All ~~operable or openable~~ exterior doors shall have either a screen door or a storm door, and be equipped with a self-closing device. When approved by the ~~inspectors~~ public officer, the screens on windows and doors may be



omitted for dwelling or dwelling units containing a permanently installed heating and air conditioning system providing the dwelling or dwelling unit with year-round mechanical ventilation. Screens shall be installed in dwellings or dwelling with window air conditioning units which are not permanently installed.

- (d) Window frames and glass shall be reasonably weather-tight, with no cracked or broken glass.
- (e) Each toilet room and bathroom shall have an operable window unless served by ~~other~~ an approved mechanical ventilation system.
- ~~(f) Each dwelling unit must provide two remote exits or, if only one exit is provided, every sleeping room must have at least one openable window approved for emergency egress. The window must be operable from the inside without use of key or tool. The window sill height shall not exceed 44 inches above the floor. Such window shall provide a minimum clear opening width of 20 inches and a minimum clear opening height of 22 inches. The total net clear opening shall not be less than four square feet. Bars, grills or other obstructions placed over these windows must be releasable or removable from the inside without the use of a key or tool.~~
- ~~(g)~~ (f) Every exterior and interior public passageway, hallway, and ~~inside stairway~~ stairwell in every dwelling or multifamily ~~dwelling~~ building shall be adequately ~~lighted~~ illuminated at all times to permit safe passage.

(Ord. of 6-15-98)

Sec. 4-78. - Structural standards

(a) *Foundations:*

- (1) The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.
- (2) All elements of the foundation, including masonry, steel, or wood piers, ~~underpinning and~~ masonry walls, and steel structural members, shall be in good repair and free from decay, rot, or structural deterioration. Piers shall be ~~sound~~ plumb, level, and have proper bearing on footings and structural member they support.
- (3) There shall be ~~sound~~ properly sized and spaced footings placed on adequate bearing soil.
- (4) There shall be no wood stiff knees or other improper piers.
- (5) No isolated masonry pier shall exceed ten times the least dimension.
- (6) Units, when underpinned, shall use an approved material so as to be substantially weatherproof and rodent-proof. A crawl space access, with cover, shall be provided to the under-floor space. Adequate ventilation shall be provided to the foundation area by approved methods.

(b) *Floors.*

- (1) Broken, overloaded, decayed or excessively sagging sills, beams, girders and joists shall be prohibited. Floors shall be ~~in sound condition and~~ maintained in good repair and ~~shall be safe to use and~~ be capable of supporting the intended live and dead loads which normal use may cause to be placed ~~thereon~~ on them.
  - (2) Flooring shall be reasonably smooth, not rotten or worn through, and without holes or excessive cracks which permit air or rodents to penetrate rooms.
  - (3) There shall be no loose flooring or floor covering.
  - (4) Floors shall be reasonably level.
  - (5) There shall be no dirt floors or wood floors on the ground.
  - (6) All bathroom, toilet room, laundry and kitchen floors shall be constructed and maintained so as to be impervious to water by covering with a waterproof, nonabsorbent material.
- (c) *Walls, exterior.*
- (1) All exterior surfaces shall be structurally sound, waterproof, weatherproof and rodent-proof with no holes, cracks or rotted boards.
  - (2) Window frames and glass shall be reasonably weather-tight, with no cracked or broken glass. All windows shall be provided with suitable hardware to include operable locks and shall be made to open freely.
  - (3) Exterior doors shall be substantially weather-tight, waterproof and rodent-proof, and lockable from inside and outside. Doors shall be maintained in ~~sound~~ proper working condition ~~and good repair~~.
  - (4) All load-bearing walls, exterior or interior, shall not be substantially bowed or out-of-plumb and shall be structurally sound.
  - (5) Studs shall provide sufficient support for sheathing or exterior finish and shall not be rotten or termite damaged.
  - (6) All exterior surfaces shall be protected with paint or other approved protective covering to prevent deterioration and the entrance or penetration of moisture.
  - (7) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or locations as to constitute a fire hazard. See section 4-75 for additional requirements.
- (d) *Walls, interior.*
- (1) Interior finish shall be free of holes.
  - (2) Walls shall be in sound condition, not seriously out-of-plumb, and structurally sound.
  - (3) There shall be no loose plaster, loose boards, or other loose wall materials susceptible to falling.
  - (4) There shall be no ~~seriously~~ rottedn, termite [-damaged], fire-damaged or broken studs.
  - (5) There shall be no cardboard, newspaper, or other similar highly combustible wall finish.

(e) *Ceilings.*

- (1) There shall be no rotten, broken, sagging, or fire-damaged joists or improperly supported ends.
- (2) Joists and supporting members shall provide sufficient support for the ceiling.
- (3) The ceiling shall be substantially rodent proof. There shall be no holes, loose plaster, boards, sheetrock, or other ceiling finish susceptible to falling.
- (4) There shall be no cardboard, newspaper, or other similar highly combustible finishes.

(f) *Roof.*

- (1) Roofs shall be in sound condition and capable of supporting the load intended.
- (2) There shall be no ~~seriously~~ rotted, broken, or fire-damaged rafters or improperly supported ends.
- (3) Rafters shall be adequately braced.
- (4) Attics shall be properly ventilated.
- (5) There shall be no loose or seriously rotted or fire-damaged sheathing or roof covering. Roofing shall be provided to prevent the entrance of moisture and shall be maintained by renewal, repair, waterproofing or other suitable means.
- (6) There shall be a minimum of Class C roof covering.
- (7) There shall be proper flashing at walls and chimney.
- (8) There shall be no roof with more than two roof coverings.
- (9) Gutters and downspouts, if installed, shall be ~~provided~~ properly maintained to properly collect, ~~conduct~~ transfer, and discharge the water from the roof and away from the structure.

(g) *Porches.*

- (1) The ~~F~~oundation, floor, ceiling and roof of all porches shall meet and be equal maintained to the same standards as set forth above, except sills and joists need not be level if providing drainage of floors; floors need not be weather-tight; and the ceiling height shall be not less than seven feet.
- (2) Posts and railings shall not be rotted or termite damaged.
- (3) Every porch, terrace or entrance platform located at more than 30 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high.
- (4) Surfaces shall be protected with paint or other approved covering or material to prevent the entrance or penetration of moisture.

(h) *Stairs and steps.*

- (1) Stairs and steps shall be free of holes, grooves and cracks large enough to ~~constitute accident~~ present tripping hazards. They shall be ~~safe to use~~ properly attached, supported, and capable of supporting the load s that normal use may cause to be placed ~~thereon on~~ them.

- (2) Stairwells and flights of stairs, attached to or within a dwelling unit, that contain four or more risers shall have handrails with minimum and maximum heights of 30 inches and 38 inches, respectively, measured vertically from the nose of the treads.
  - (3) Every rail shall be firmly fastened and maintained in good condition.
  - (4) No flight of stairs settled more than one inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
  - (5) No rotting, sagging or deteriorated supports shall be allowed.
  - (6) Every stair riser shall be reasonably uniform and shall not exceed eight and one-fourth inches in height and shall be securely fastened in position. Every wood riser in excess of 36 inches in width shall have an additional stringer, each stringer to be spaced not more than 30 inches apart. The minimum depth of treads shall be nine inches excluding the nosing.
  - (7) Exterior stairs shall be protected with paint or other approved covering or material to prevent the entrance or penetration of moisture.
- (i) *Accessory structure.*
- (1) Fences and other accessory structures and buildings shall either be maintained in a safe and ~~substantial~~ structurally sound condition or be demolished and removed from the property.
  - (2) The ~~S~~structural standards, as outlined in this section, shall also apply to all accessory structures and buildings.
  - (3) No deterioration due to the elements because of lack of preventive maintenance consisting of painting, waterproofing and repair shall be allowed.
  - (4) Any electrical, plumbing, heating or other utilities furnished to an accessory structure shall be installed in accordance with the state building code or other applicable codes and maintained in a safe condition.
  - (5) Every accessory structure shall be properly maintained in a clean and sanitary condition, and free from physical hazards and other matter detrimental to the public health.

(Ord. of 6-15-98)

Sec. 4-79. - Property maintenance.

- (a) ~~† Vermin.~~ ~~†~~Premises, buildings, and structures shall, by generally accepted methods of extermination, be maintained free of vermin and rodent harborage and infestation.
- (b) *Rubbish and garbage.* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper ~~storage facilities~~ garbage receptacles. The owner shall be responsible for providing the receptacles for the storage of garbage and rubbish. Removal shall be at such frequent intervals to prevent buildup.

- (c) *Drainage.* Every yard shall be properly graded ~~so as~~ to obtain thorough drainage and ~~so as~~ to prevent the accumulation of stagnant water in the yard or under the structure.
- (d) ~~Noxious weeds~~ *Overgrown Vegetation.* Every yard and all exterior property areas shall be kept free of ~~species of weeds or plant~~ *overgrown vegetative plant* growth which ~~is are noxious~~ *or* detrimental to public health or provide breeding places for flies, ~~or~~ insects., rodents, or other similar pests.
- (e) *Protective Treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the and the perimeter of windows, doors, and skylights shall be maintained weather-resistant and water-tight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit rest and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. (Ord. of 4/16/12)

(Ord. of 6-15-98)

#### Sec. 4-80. - Rooming house exceptions

All of the provisions of this article and all of the minimum standards and requirements of this article shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

- (1) At least one water closet, lavatory and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the resident building served; shall be accessible from a common hall or passageway; and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or basement. All rooms containing these appurtenances shall have a door equipped with a privacy lock.
- (2) Every room occupied for sleeping by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant over 12 years of age.
- (3) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house and premises.
- (4) No occupant of a rooming house shall heat or cook or permit the heating of food within his rooming unit.

(Ord. of 6-15-98)



## Sec. 4-81. - Requirements of occupants.

Every occupant of a dwelling or dwelling unit or apartment shall:

- (1) Keep that part of a dwelling or dwelling unit or apartment which ~~he~~ they occup~~ies~~y and controls in a clean and sanitary condition.
- (2) Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.
- (3) Be responsible for the extermination of any insects, rodents or other pests whenever such dwelling unit or apartment is the only one in the residential building infested, and the owner has provided a reasonable insect-proof and adequate rodent-proof building.
- (4) Dispose of all garbage and other refuse in an approved garbage receptacle.
- (5) Permit the ~~inspectors~~ public officer free access at reasonable times for the purpose of inspection in accordance with section 4-83 of this article.
- (6) Not place on the premises any material which causes a fire or otherwise endangers the health or safety of any occupants of such building; not place in storage or on the premises any furniture, auto parts, junk rubbish, equipment or material which harbors insects, rodents or other pests.
- (7) Not occupy any dwelling unit unless running water is provided to the required plumbing fixtures.
- (8) Not place within any structure, for use therein, any oil or gas-fired portable or non-vented cook stove or heater.
- (9) Not place on the premises, for use thereon, any heating or cooking unit which constitutes a fire hazard.
- (10) Not cause such damage to the dwelling unit or apartment let to him as to make the same unfit for human habitation.
- (11) Not occupy a dwelling unit after the ~~inspectors~~ public officer has duly placarded the structure in accordance with section 4-83 and section 4-86.
- (12) Give the owner, ~~his~~ their agent or employee access to any part of such dwelling or dwelling unit and its premises at all reasonable hours for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.
- (13) Not cause any service, facility, equipment, or utility which is required under this chapter to be removed or shut off from, or discontinued for, any dwelling occupied by ~~him~~ them.

(Ord. of 6-15-98)

## Sec. 4-82. - Liability, responsibility of owner.

- (a) A ~~n~~ owner remains liable for violation of duties imposed upon ~~him~~ them by this article even though:

- (1) An obligation is also imposed on the occupant.
- (2) The owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this article.
- (b) Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in a dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (c) The owner may not permit the continued occupancy of a dwelling unit which has been duly placarded by the ~~inspectors~~ public officer in accordance with section 4-83 and section 4-86.
- (d) The owner shall furnish adequate storage receptacles for garbage and rubbish, and shall be responsible for the removal of all garbage and rubbish from the premises at frequent enough intervals to prevent buildup of such garbage and rubbish.
- (e) The owner shall be responsible for compliance with this division.
- (f) No owner or operator shall cause any service, facility, equipment, or utility which is required under this ordinance to be removed or shut off from or discontinued for any occupied dwelling.
- (g) The owner shall ensure that the structure remains closed and secured when not occupied. Should it become necessary to board the windows and/or doors, it must be done with boards fitted to the openings, screwed in place, and painted a color consistent with the surrounding wall area.

(Ord. of 4-16-12)

### DIVISION 3. - ENFORCEMENT

#### Sec. 4-83. - Procedure.

- (a) *Preliminary investigation.* (1) Whenever a petition is filed with the public officer ~~inspector~~ by a public authority, or by a least five residents of the county, or by an occupant charging that a dwelling or dwelling unit is violative of provisions of this article, or whenever it appears to the public officer ~~inspector~~ that any dwelling, dwelling unit, accessory structure, or building is violative of the provisions of this article, the public officer ~~inspector~~ shall make an investigation and prepare an itemized list of such violations.  
(2) Whenever it appears to the public officer that any nonresidential building or structure is vacant, abandoned, and/or has not been properly maintained so that the safety, health, or welfare of its occupants or members of the general public are in danger of injury or other calamity, the public officer shall make an investigation and prepare an itemized list of such violations.

- (b) *Right-of-entry.* For the purpose of making an inspections investigation, the public officer inspector is hereby authorized to enter, examine, and survey at all reasonable hours, all dwellings, dwelling units, rooming units, accessory structures and buildings, or nonresidential buildings, or structures and the premises associated therewith. The owner, ~~or occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge thereof~~ the owner's agent, tenant, or other persons legally in possession of the premises, shall give the public officer inspector free access to such premises at all reasonable hours for the purpose of such inspection investigation, examination and survey. When permission to inspect investigate the ~~a dwelling or its~~ premises ~~is~~ has been denied or when the buildings or structures are vacant or abandoned, the public officer inspector shall obtain an duly issued administrative warrant in accordance with G.S 15-27.2 to inspect before conducting an investigation.
- (c) *Complaint and notice of hearing.* The public officer inspector shall issue and cause to be served upon the owner of, and parties of interest in, such dwelling, nonresidential building or structure, a complaint accompanied by ~~an~~ copy of the itemized list of such violations and advise the owner and parties of interest in, such violations are to be corrected to bring the dwelling, accessory structure or building, or nonresidential building, or structure into conformance with the minimum housing and nonresidential building code. The complaint shall include a notice that a hearing will be held before the hearing officer at a place and time therein fixed, not less than ~~ten~~ 10 nor more than 30 days after the serving of the complaint, so that the owner and parties of interest in, may give any reason why ~~he~~ they believe that the ~~should not bring the~~ dwelling, accessory structure or building, or nonresidential building, or structure is not in violation as charged into conformity. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. The rule of evidence prevailing in courts of law and equity shall not be controlling in these hearings.
- (d) *Issuance of order.*
- (1) If, after such notice and hearing as designated in subsection (c) above, the hearing officer determines that the dwelling, accessory structure or building, or nonresidential building, or structure under consideration is violative of standards or requirements herein set forth, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order.
  - (2) The order shall state that the owner must complete the corrective action in either subsection a, b, c, or d below, ~~at the owner's option~~.
    - a. Repair, alter and/or improve each dwelling, accessory structure or building, or nonresidential building, or structure so as to render it safe and fit for human habitation, occupation, or use, in accordance with the standards set forth in this article. The owner shall correct ~~ordinance~~ all violations as itemized in the public officer's inspector's report. Should any other unsafe or hazardous condition become apparent during the course of such work, that condition ~~also~~ shall also be remedied

- to bring the dwelling, accessory structure or building, or nonresidential building, or structure ~~up~~ into compliance with minimum housing the standards as set forth in this article. Such order may also require the owner to immediately vacate, or cause to be vacated and closed, the dwelling and keep it vacant until all work is completed.
- b. Remove or demolish the ~~dwelling~~ building and structures. This shall include removing all debris from the lot.
  - c. ~~Demolish the dwelling and remove all debris from the lot.~~ Immediately vacate, or cause to be vacated, and secure from entry, the building or structure. The owner shall keep it in such condition until the building or structure is suitable for human habitation or occupation for a period not to exceed one calendar year from the time of the order. After the one-year period has expired, the public officer shall require the owner to comply with an order as outlined in (d)(2)(a) or (b) above.
  - d. Comply with any requirement imposed upon an owner/occupant of a dwelling ~~unit,~~ accessory structure or building, or nonresidential building, or structure by this article.
- (3) The order shall specify a period of time, not to exceed 90 days from the date of the order, to complete all work as outlined in subsection (d)(2)(a) and (b) above.
- (4) ~~Such order may also require the owner to immediately vacate, or cause to be vacated and closed, the dwelling and keep it vacant until all work is completed.~~
- (e) *Additional actions of the public officer ~~inspector~~.*
- (1) At the same time as the hearing notice shall be sent to the owner, the public officer ~~inspector~~, pursuant to G.S. 1-116, may file a lis pendens upon the premises with the clerk of superior court.
  - (2) In all cases where the dwelling, ~~or dwelling unit,~~ accessory structure or building is found to be unsafe, the public officer ~~inspector~~ may cause to be placed upon the dwelling, dwelling unit, accessory structure or building on the main entrance thereof, a placard displaying the following words: "This building is unfit for human habitation; the use or occupation of this building is prohibited and unlawful." In all cases where a nonresidential building or structure is found to be unsafe, a placard displaying the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful". The placard shall remain fixed to the dwelling, accessory structure or building, or nonresidential building, or structure until it shall be removed by the public officer ~~inspector~~ when, upon reinspection, he finds that the condition of the dwelling ~~or dwelling unit,~~ accessory structure or building, or nonresidential building, or structure complies with the minimum housing code of the county. Pending that finding, the removal, moving, defacing, mutilating, or covering of a placard by any person is prohibited and shall constitute a misdemeanor.
  - (3) If a vacancy has occurred or the tenants are in the process of vacating, the public officer ~~inspector~~ may follow the procedures as outlined in subsection (e)(2) above.
- (f) *Method of service.*

- (1) Complaints or orders issued by ~~an~~ public officer inspector shall be served upon persons either personally or by ~~registered or~~ certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. ~~If certified mail is returned as unclaimed or refused, delivery may be attempted using certified and regular mail. A copy of the correspondence will be sent both certified and regular mail.~~ If the certified mail is unclaimed or refused, but the regular mail is not returned within ten days from mailing, service will be deemed sufficient. If ~~this method of service~~ regular mail is used, the correspondence must be posted on the premises in a conspicuous location.
- (2) If the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer inspector in the exercise of reasonable diligence and the public officer inspector shall make an affidavit to the effect, then serving of such complaint or order upon such person may be made by publishing the same once in a newspaper of general circulation in the county. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order.
- (3) Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest, or any other person, firm or corporation.
- (4) ~~Authorized agent. Each owner of rental property located within the jurisdiction of the county shall authorize a person residing within the county to serve as his or her agent for the purpose of accepting service of process under this section. The owner shall provide on a form supplied by the county inspection department, the authorized agent's name, address, and phone number. The owner shall notify the county inspection department of any changes in the information provided, not more than ten days after such changes have occurred. Nothing in this section shall require an owner to designate an agent to accept service of process where the owner of the rental property resides within the county.~~

(Ord. of 6-15-98)

Sec. 4-84. - Right of appeal to the Board of Adjustment ~~housing appeals board~~.

- (a) Any owner or person who is aggrieved with the ruling or decision of the hearing officer in any manner relative to the interpretation or enforcement of any of the provisions of the minimum housing code of the county may appeal from any such decision to the Board of Adjustment ~~housing appeals board~~.
- (b) An appeal from any decision or order of the hearing officer may be taken by any person aggrieved thereby or by an officer, board, or commission of the county. Except from appeals for an extension of time within which to comply with the decision or order of the hearing officer, any appeal from the hearing officer shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the public officer inspector, hearing officer or secretary to the housing appeals board a notice of appeal, on forms supplied by the inspection department, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the secretary shall transmit to



the board all the papers constituting the record upon which the decision being appealed was made. When an appeal is from a decision of the hearing officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the hearing officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the public officer ~~inspector~~ certifies to the board that such suspension would cause imminent peril to life or property, in which case the requirement shall not be suspended.

- (c) An appeal for an extension of time within which to comply with the decision or order of the hearing officer may be taken in the manner set forth in subsection (b) above, at any time not less than 14 days prior to the expiration of time to comply. An extension of time shall be granted only if the appellant has commenced lawfully the corrective work or acts directed by the public officer ~~inspector~~ and completed a minimum of 25 percent of the required work or acts, calculated as a percentage of the total of the required work or acts as the housing appeals board may deem reasonable under the circumstances. The board shall not grant an extension of time for compliance with a decision or order of the hearing officer to correct or abate a condition of habitation which poses an imminent threat of serious bodily injury. The board shall grant an extension of time only for such period it finds is reasonably necessary to complete the corrective work or acts required and may attach such conditions to the extension that it deems necessary to assure orderly progression of such work and acts. The board shall not grant an extension of time for more than six months following the expiration of the time to comply directed by the hearing officer.
- (d) The housing appeals board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person, or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order as in its opinion ought to be made in the matter, and to that end, it shall have all powers of the public officer ~~inspector~~, but the concurrent vote of four members of the board shall be necessary to reverse or modify any decision or order of the public officer ~~inspector~~. The board shall have the power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the article, to adapt the application of the article to the necessities of the case to the end that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done.
- (e) In case any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the public officer ~~inspector~~ or board made pursuant to this article, the public officer ~~inspector~~ or board may institute any proceedings or appropriate action to prevent such unlawful erection, construction, reconstruction, or alteration, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Ord. of 6-15-98)

Sec. 4-85. - Violations, penalties, and remedies.

- (a) *Violations.*

- (1) Every dwelling and dwelling unit, or nonresidential building, or structure used as a human habitation, ~~or~~ held out for use as a human habitation, or is constructed for the purpose of human occupation which does not comply with all the requirements of division 2 of the Code shall be deemed substandard.
  - (2) Unless otherwise provided in this chapter, all requirements relating to housing shall be the responsibility of the owner.
  - (3) No person shall occupy as owner-occupant or let to another or others for occupancy or use or cause or allow to be used as a human habitation, any dwelling or building which exhibits any of the conditions described in section 4-86(b) and has been ordered vacated in accordance with section 4-83(d)(4). The removal, defacing, moving, mutilating, or covering of the placard by any person is prohibited and shall constitute a separate offense.
  - (4) The public officer ~~inspector~~ shall determine that a residential building is unfit for human habitation if he finds that any of the conditions contained in section 4-86(b) exist in such building.
  - (5) Each day that any such condition or failure, neglect, refusal, or occupancy continues shall constitute a separate and distinct offense.
- (b) *Criminal penalty.*
- (1) A violation of this article shall be a misdemeanor as provided in G.S. 14-4.
  - (2) The public officer ~~inspector~~ may seek, from an appropriate official of the general court of justice, an arrest warrant or other process initiating criminal charges against any person who violates this article.
- (c) *Civil penalties.*
- (1) Violation of this article may also subject the owner or party of interest to a penalty of ~~\$50.00~~ 250.00 per day for each day and every day the violation exists, ~~not to exceed \$3,000.00~~. The penalty shall be payable to Cumberland County and shall be paid at the office of the county planning and inspection department. Failure of the owner or party of interest to pay the penalty within 12 days shall result in the county initiating ~~a civil action to collect the penalty~~ collection of the debt through the North Carolina Setoff Debt Collection Act.
- (d) *Equitable remedies.*
- (1) This article may be enforced by an appropriate equitable remedy issued from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the county that there is an adequate remedy at law.
  - (2) When a violation of this article occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. In addition to an injunction, the court may enter an order of abatement as part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that

fixtures, furniture or other movable property be removed from buildings on the property, that grass and weeds be cut, that improvements or repairs be made; or that other action be taken that is necessary to bring the property into compliance with the article. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the judge before whom the matter is heard and shall be continued on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(e) *Other remedies.*

- (1) The criminal penalties and equitable remedies provided in this section are cumulative and not exclusive and may be independently pursued against the same person for the activity constituting a violation of this section. Nothing in this section shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other ordinances or laws.
- (2) This article may be enforced by the public officer ~~inspector~~ submitting to the board of county commissioners an ordinance ordering a substandard or unfit ~~dwelling or dwelling unit~~, accessory structure or building, or nonresidential building, or structure to be repaired, altered, improved, vacated, closed, removed or demolished, and pending removal or alteration, by placing a placard on such dwelling, ~~dwelling unit or accessory structure~~, accessory structure or building, or nonresidential building, or structure as provided by G.S. ~~153A-366~~ 160D-1119 and section 4-83(e)(2) of this article. The amount of the cost of any repairs, alterations, improvement, vacating, closing, removal, or demolishing caused to be done by the public officer ~~inspector~~ shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be collected as the lien for special assessment as provided in North Carolina General Statutes, Chapter 160AD, Article 10, Section ~~160A-433(6)~~ 160D- 1126. The ordinance may provide for the imposition of a civil penalty for each day's continuing violation of any provision of the ordinance for compliance. The amount of the penalty shall be determined by the board of county commissioners in each ordinance based upon the facts and circumstances of each case. The amount of the penalty for each day's violation shall not exceed \$250.00 ~~and the total penalty for one continuing violation shall not exceed \$3,000.00.~~

(Ord. of 6-15-98)

Sec. 4-86. - Emergency enforcement procedures.

- (a) *Generally.* The existence of unfit conditions of habitation which pose an imminent threat of bodily harm to occupants of a dwelling, or a dwelling unit, or any person upon the premises or adjacent property or neighborhood are declared unlawful conditions existing upon, or use made of, land and constitute a public nuisance. In order to protect the public welfare, expedited procedures are necessary to immediately remedy these unlawful conditions.
- (b) *Unfit conditions.* Unfit conditions of habitation or occupation which pose an imminent threat of serious bodily harm include, but are not limited to:
- (1) Unsafe drinking water.
  - (2) Lack of a sanitary and legal means to dispose of human sewage.
  - (3) Unsafe electrical installation in violation of the state building code.
  - (4) Hazardous cooking or heating equipment.
  - (5) Unsafe fuel storage tanks and/or supply lines.
  - (6) Substantial rodent or vermin infestation.
  - (7) Serious structural deterioration creating a likelihood of collapse.
- (c) *Violation.* It shall be a violation of this article for an owner or party of interest knowingly permit, allow or condone the existence of unfit conditions of habitation or occupation upon the land which pose an imminent threat of serious bodily harm of occupants of a dwelling, ~~or~~ dwelling unit, nonresidential building, or structure, or any person upon the premises of adjacent property or neighborhood. Failure of the owner to correct the unfit condition of habitation or occupation which poses an imminent threat of serious bodily injury within the time prescribed by the public officer ~~inspector~~ shall be prima facie proof of the initial violation. Each day's existence of the condition, subsequent to the date of correction specified by the public officer ~~inspector~~, shall be an additional separate and distinct violation.
- (d) *Procedure.*
- (1) The public officer ~~inspector~~, upon receipt of a complaint or upon his own initiative, shall investigate the alleged unlawful condition. The public officer ~~inspector~~ shall determine if the condition creates an imminent threat of bodily harm to occupants or persons upon the premises. Such determination constitutes a violation of this article.
  - (2) Upon such determination, the public officer ~~inspector~~ shall:
    - a. Placard the main entrance of any structure. The placard shall provide notice that the structure has been condemned and is deemed unsafe for human occupancy.
    - b. Notify the owner or party of interest of the public officer's ~~inspector's~~ determination that the dwelling or dwelling unit is unfit for human habitation and poses an imminent threat of bodily harm to occupants or persons upon the premises, and that such condition is a violation of this article.
  - (3) The notice shall be in writing and served in accordance with section 4-83 and shall state:

- a. The particular condition found to pose a serious threat of bodily injury and that the condition is both a criminal and civil violation of this article.
  - b. The specific correction to be made.
  - c. The date of the initial violation as the date of receipt of the notice.
  - d. The date not later than which the correction is to be made.
  - e. The failure to correct the condition within the time prescribed in the notice is prima facie proof of the initial violation.
  - f. That each day's willful failure to correct the condition subsequent to the date prescribed in the notice for correction is a separate and distinct violation of this article.
- (4) The public officer ~~inspector~~ shall prescribe a reasonable time for the correction of the condition found to pose a serious threat of bodily harm; however, that period shall not be less than 72 hours.
- (5) A copy of section 4-86 shall accompany the notice.
- (e) *Enforcement.*
- (1) Violation of this section subjects the owner or party in interest to a civil penalty of ~~\$50.00~~ 250.00 per day, subsequent to the date of receipt of the notice of violation, for each day and every day the condition remains uncorrected, ~~not to exceed \$3,000.00~~. The penalty shall be payable to Cumberland County and shall be paid at the county Planning & Inspections ~~d~~Department, ~~Old Courthouse, Fayetteville, North Carolina~~. Failure of the owner or party in interest to pay the penalty within 12 days after receipt of the notice shall result in the county initiating collection of the debt through the North Carolina Setoff Debt Collection Act ~~of a civil action by the county to recover the penalty for the benefit of the county~~.
- (2) The criminal penalties and equitable remedies provided in section 4-85 are applicable to this section in addition to the civil penalty above. These means of enforcement are cumulative, and not exclusive, and may be independently pursued against the same person for the activity constituting a violation of this section.

(Ord. of 6-15-98)

Secs. 4-87—4-130. - Reserved.

## ~~ARTICLE V.—INSULATION CONTRACTORS<sup>151</sup>~~

### ~~Footnotes:~~

~~—(5)—~~

~~**State Law reference**—Enforcement of building code insulation and energy utilization standards, G.S. § 143-151.26 et seq.; regulating and licensing businesses, trades, etc., G.S. § 153A-134.~~

~~Secs. 4-131—4-149. Reserved.~~

~~**Editor's note**—An ordinance adopted Aug. 4, 2003, repealed §§ 4-131—4-149, which pertained to insulation contractor requirements and derived from Comp. Ords., §§ 15-1.1—15-1.7, 15-1.9 and 15-1.10.~~

~~Sec. 4-150. Permit required; fees.~~

~~No person licensed under this article may for a consideration install, alter or restore any insulation or other materials or energy utilization equipment designed or intended to meet the state building code requirements for insulation and energy utilization standards without first securing a permit from the building inspector for each item or work. There shall be a permit fee, as set forth in the schedule of fees in the county administration and technical ordinances, for each permit issued.~~

~~(Comp. Ords., § 15-1.8)~~

~~**State Law reference**—Similar provisions, G.S. § 143-151.29.~~

~~Secs. 4-151—4-160. - Reserved.~~

## ARTICLE VI. - PROPERTY ADDRESSING<sup>[6]</sup>

Footnotes:

--- (6) ---

**Editor's note**— An ordinance adopted Nov. 24, 1992, did not specifically amend this Code; hence inclusion as Ch. 4, Art. VI, §§ 4-161—4-197 was at the discretion of the editor.

### DIVISION 1. - GENERALLY

Sec. 4-161. - Title.

This article shall be known and may be cited as the "Property Address Ordinance for the County of Cumberland, North Carolina."

(Ord. of 11-29-92)

Sec. 4-162. - Purpose.

The purpose of this article is to provide a uniform property numbering system along both public and private streets and roadways in order to facilitate provision of adequate public safety and emergency response services. This article is further designed to eliminate duplicate or



phonetically similar street names, to provide for the uniform marking of streets and roadways, and to provide for the assignment of house numbers for all properties and principal buildings throughout the county. It is further designed to establish an official street name map and listing of all streets and roadways in Cumberland County, and to establish the procedures by which a street or roadway may be named or by which an existing name may be changed.

(Ord. of 11-24-92)

Sec. 4-163. - Authority.

This article is adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A-121, [239.1](#) ~~239, 240~~ and local modifications thereto.

(Ord. of 11-24-92)

Sec. 4-164. - Jurisdiction.

This article, the regulations, and the procedures contained herein shall apply to and govern each and every lot, parcel or tract of land and improvement thereon, within the county outside of the jurisdiction of any incorporated municipality.

(Ord. of 11-24-92)

Sec. 4-165. - Definitions.

For the purpose of this article, certain terms or words used herein shall be defined as follows:

*Board of commissioners* means the Cumberland County Board of Commissioners.

*Building* means any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, or equipment. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building. For the purposes of this article, the term "building" may also include other manmade structures such as a mobile home.

*Business address* means a site-specific address.

*Developer* means a person, firm or corporation submitting an application for development for a subdivision, planned unit development, industrial park or mobile home park and upon whom final responsibility for ensuring compliance with the terms and conditions of this article rests.

*Driveway* means a private way, beginning at the property line of a lot abutting a public road, private road, easement or private easement, recorded private road or private right-of-way, and leading to a building, use or structure on that lot.

*Dwelling, single-family* means a building, including a mobile home not in a mobile home park, arranged or designed to be occupied by one family. As defined in the Cumberland County Zoning Ordinance.

*House number* means a site-specific address assigned to any house residence, dwelling, business, warehouse, or other structure or property in a sequential manner.

*Mailing address* [means the address] assigned or used by the U.S. Postal Service for the purpose of delivery of the U.S. mail. Mailing address may or may not be identical to a site-specific address.

*Mobile home* means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of 32 feet or more in length and eight feet or more in width. As used in this article, mobile home also means a double-wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semi-permanent foundation having a measurement of 32 feet or more in length and eight feet or more in width.

*Mobile home space* means any parcel of ground within a mobile home park designated for the exclusive use of one mobile home.

*Mobile home park* means any site or tract of land upon which are located three or more mobile home dwellings capable of being occupied for dwelling or sleeping purposes.

*Official street name* means the name of any roadway, public road, private road or driveway in the area of Cumberland County as approved by the Cumberland County Planning Department.

*Planning department* means the Cumberland County Joint Planning Department.

*Private mobile home park road* means any roadway or driveway which serves two or more homes for residential purposes, and which has not been dedicated to the public use.

*Public road* means a street located on public right-of-way and which meets the total improvement requirements for a public street as set forth by the North Carolina Department of Transportation in its publication "Subdivision Roads Minimum Construction Standards " that are currently maintained by the North Carolina Department of Transportation and roads that are recorded as public rights of way.

*Private road* means a roadway not maintained by the North Carolina Department of Transportation which is not for public use but can be used for access to a particular site, group development or business.

*Roadway* means any road, street, drive, lane, cartway, tramway, easement, right-of-way, access area, thoroughfare, highway, boulevard, or any other corridor used for or having the potential use as a means of travel by a motor vehicle.

*Site specific address* means an address comprised of an official street name and sequential number assigned by the Cumberland County Joint Planning Department.

*Situs address* means an address used for property identification through the County of Cumberland Assessors office and contained in the OASIS mainframe computer files. There may be more than one site specific address for each situs address.

*State road number* means a number assigned by the North Carolina Department of Transportation; also known as the SR number for secondary state-maintained roads.

*Street name* means the official name of any roadway, designated by the Board of Commissioners or, in the case of state-maintained roads, by the North Carolina Department of Transportation. New street names may become official under the procedure outlined in section 4-172 of this article.

*Travel trailer* means a vehicular portable structure less than 32 feet in length primarily designed as a temporary dwelling for travel, recreation or vacation uses not intended for a residence or domicile.

*Travel trailer park* means a parcel of land designed and equipped to accommodate travel trailers on a temporary basis.

(Ord. of 11-24-92)

Sec. 4-166. - Abbreviations.

*Abbreviations.* Official USPS abbreviations shall be used for street name suffixes.

(1) *Suffixes.* See Appendix (1).

(2) *Prefixes.* The following shall be used before a road name, where applicable:

North - N.

South - S.

East - E.

West - W.

(3) *Name.* Certain abbreviations may be used on signs that include commonly used words or terms in official street names. Including, but not limited to the following:

Fort - Ft.	Branch - Br.
Church - Ch.	Mount - Mt.
Saint - St.	Creek - Crk.

All other additional abbreviations for site specific addresses will conform to the U.S. Postal Service standards.

(Ord. of 11-24-92, § 202)

Secs. 4-167—4-170. - Reserved.

DIVISION 2. - STREET NAMES

## Sec. 4-171. - Generally.

- (a) The county joint planning department shall maintain a listing of all official street names in Cumberland County as well as maintain an official county map exhibiting the approved names and location of all roadways in Cumberland County, and shall serve as a clearinghouse for all information regarding the names and location of roadways in Cumberland County.
- (b) Any amendments to such list shall be made only by the county board of commissioners unless additions to such lists are made through the procedure for approval of new subdivisions, planned unit developments, mobile home parks, previously unnamed roadways, private roads or driveways, or through other land development regulations or upon determination that the original list had typographical errors.
- (c) All public roadways and private roads in unincorporated Cumberland County shall be identified by a sign showing the official name. State road numbers shall appear on roadways maintained by NCDOT. These road signs shall be placed at all intersections and shall identify intersecting streets. County personnel or those persons authorized by the county board of commissioners are authorized to remove any existing street name sign that does not conform to the adopted county sign specifications, including name and style.

(Ord. of 11-24-92)

## Sec. 4-172. - Street naming procedures.

- (a) The board of county commissioners shall by ordinance name or rename all public or private roads within the county and not within an incorporated municipality and shall assign or reassign site specific addresses for use on such roads. In naming or renaming a public road, the board of commissioners may not:
  - (1) Change the name, if any, given to the road by the North Carolina Board of Transportation without their concurrence.
  - (2) Change the state road identification number assigned to the road by the board of transportation.
  - (3) Give the road a name that is deceptively similar to the name of any other public road in the vicinity.

The board of county commissioners shall not name or rename a road or assign or reassign site specific addresses on a road until it has held a public hearing on the matter except as provided in division 3. At least ten days before the day of the hearing, the board of commissioners shall cause notice of the time, place, and subject matter of the hearing to be prominently posted at the county courthouse, and in at least two public places in the township or townships where the road is located, and shall publish a notice of such hearing in at least one newspaper of general circulation in the county.

After naming or renaming a public road, or assigning or reassigning street numbers on a public road, the board of county commissioners shall cause notice of this action to be given to the local U.S. Postmaster (AIS Section) with jurisdiction over the road, to the Board of Transportation, to any city within five miles of the road, and to the following agencies:

Cumberland County Sheriff's Department, volunteer fire departments, City of Fayetteville Communications, Cumberland County Emergency Operations Center, Cumberland County Assessors Office for annotation on county maps, board of education, Cumberland County Fire Marshal and the City of Fayetteville Engineering Department.

- (b) The Cumberland County ~~Joint~~ Planning and Inspections Department is authorized to determine the need for road names and name changes and to recommend such additions or changes to the county commissioners for both private and public roads outside the corporate limits of any municipality within the county. If property owners abutting a road(s), identified by the staff for naming or renaming, waive their right to suggest a name after notification by the staff of the need for a name, the staff is authorized to choose an official name from the pre-approved list contained within the street naming coordinators' file.
- (c) A street name may be assigned to any public or private road which provides access to two or more residences, businesses, industries or combinations thereof, regardless of the length of such road.
- (d) Subject to subsections (e) and (f), below, following the initial naming of all roads within Cumberland County, renaming may be accomplished by the board of county commissioners on their own motion or by petition of at least 50 percent of all property owners abutting the street being petitioned for change.
- (e) No street name change petitions for officially adopted streets will be accepted until after the completion of the initial sign installation project for the entire county and approval by the appropriate North Carolina Department of Transportation official(s) for the installed signs.
- (f) Changing of the same officially adopted street name will be considered only once every five years.

(Ord. of 11-24-92)

Sec. 4-173. - Street name duplications.

- (a) The board of county commissioners shall not assign a roadway name that is deceptively similar to the name of any other public or private road in the county.
- (b) Street names should not closely approximate phonetically the name of any street within the county, irrespective of a differing suffix or spelling.

(Ord. of 11-24-92)

Sec. 4-174. - Mobile home parks, condominiums, apartments, planned unit developments, public housing developments, and travel trailer parks.

Where county records are incomplete, the owners of existing mobile home parks, condominiums, apartments, planned unit developments, public housing developments, and travel trailer parks shall, upon request by the planning department, submit a legible and scaled map of their development, the location, name and width of each roadway, and respective parcel identification numbers (PIN). Each lot and/or building within the development must also be

identified in a numeric fashion. Structures containing multiple units must also have the number of units per structure shown on the plat/map.

(Ord. of 11-24-92)

Secs. 4-175—4-180. - Reserved.

### DIVISION 3. - PROCEDURES

Sec. 4-181. - Generally.

Property addressing includes the assignment of site-specific addresses to residences, businesses and other property within the unincorporated areas of Cumberland County. Initial numbering of interior offices and rooms shall be done in consultation with the Cumberland County Joint Planning Department. It shall be the responsibility of the owner/manager to notify the planning department of any subsequent changes.

(Ord. of 11-24-92)

Sec. 4-182. - Authorization.

The Cumberland County ~~Joint~~ Planning and Inspections Department is hereby authorized to assign property addresses on streets which are not presently numbered, and to readdress streets which are not numbered in accordance with section 4-183.

(Ord. of 11-24-92)

Sec. 4-183. - Assigning addresses to buildings and property.

- (a) As a matter of general policy, on streets radiating outward from the Market House, even numbers shall be assigned to buildings on the right side of a street and odd numbers shall be assigned on the left side of a street. The county is split into quadrants using the Market House as the origin and having Person St./Clinton Rd., Hay St./Morganton Rd., Green St./Ramsey St. and Gillespie St./U.S. 301 s. representing the boundaries of the quadrants. Streets originating at these base lines will have numbers assigned to the right-hand side of the street and odd numbers on the left. For example, N. McPherson Church Rd. begins at the base line of Morganton Rd. and therefore has odd numbers assigned to the left side of the road as the numbers increase. The joint planning department shall exercise appropriate discretion in ambiguous cases.
- (b) Allowances shall be made for vacant properties that could be developed at a higher density in order that numbers may be properly assigned. The following general policy shall apply: Two site specific addresses shall be assigned, one on either side of the street, at 20-foot intervals (the equivalent of 100 possible addresses for each 1,000 feet of roadway).
- (c) Site specific addresses for corner lot properties shall be determined by where the front door entrance meets the street. If the front door faces a street that does not provide access or bisects the intersection the address will be assigned to the street that provides access.



- (d) Road sections shall be addressed on a block by block basis where possible. A block is normally a section of street or road terminated at each end by intersections. Streets not having any intersections for a length of 1,000 feet or more will require block changes at no more than 1,000-foot intervals.
- (e) Individual buildings on lots created without frontage on an approved private street or public street will be addressed to the street they obtain access from. For those driveways not requiring a name, the number is to be posted onto the mailbox or other device at the intersection of the access point and on the building.
- (f) Multiple buildings obtaining access on an unnamed unplatted drive will require the naming of that drive before number assignment, regardless of the length of the driveway, if the lot frontage divided by 20 is greater than the number of units proposed.
- (g) Address assignment within mobile home parks will conform to the usual number assignment, with one exception. The unit number shall be displayed on the unit closest to the street by the park owner(s) or management group and be maintained by that group.
- (h) Apartment buildings and some office building developments shall have one unique site-specific address assigned to each building with either a suite or an apartment suffix assigned for each unit. The suite or apartment suffix shall be numeric.
- (i) Property addressing in regional shopping centers and mall facilities shall be reviewed on a case by case basis in consultation with the U.S. Postal Service and Emergency Dispatch Centers to determine whether a separate addressing scheme is necessary.
- (j) When more units are built in a multiunit development than the existing address ranges would allow either of two methods shall be used: (1) assignment of a primary number with an alpha suffix such as 712-A and 712-B; or (2) naming of the roadway entering the development.

In cases where a new road is built to serve the new development the new road will be named and addresses will be assigned to it. When more units are built than previously existed with access onto an existing street and the existing addresses would not allow for the assignment of additional numbers, alpha suffixes shall be assigned using the ascending or descending pattern exhibited in the surrounding developed areas.

- (k) Buildings obtaining access across a 20-foot extended lot line(s) to a public street will be addressed to the public street to which they obtain access, unless the such "flagged lot" contains two or more principal structures, or where there are multiple "flagged lots" in which case(s) the extended lot line shall need to be named as a street for addressing purposes.

(Ord. of 11-24-92)

Sec. 4-184. - Subdivisions with proposed new streets.

- (a) For all subdivisions which are developed in conformance with the Cumberland County Subdivision Ordinance and in which new streets are proposed, the following items must be submitted to the planning department for approval before any property can be subdivided and recorded:

- (1) A scaled map of the overall tract illustrating street layout (preliminary plan) including a vicinity map and parcel identification number (PIN).
- (2) The pre-approved name for each street labeled on the preliminary plat.
- (b) The planning department will review the proposed street names for duplication and for overall compliance with the street naming and addressing policy.
- (c) The approved street name(s), containing the approved prefix and/or suffix, shall be included on the final plat submitted for recordation. If the petitioner desires to change the approved street names indicated on the approved preliminary plat to the final plat it will require that the proposed new street name be approved by the street naming coordinator prior to final plat approval. If the proposed name is not contained on a pre-approved list the proposed name will be reviewed to ensure that there is no street name currently in existence that would confuse emergency dispatch personnel or the Postal Service. This process requires ten working days.

(Ord. of 11-24-92)

Sec. 4-185. - Display of site-specific address numbers.

Site specific address numbers in a contrasting color from their background must be clearly displayed on all buildings so that the location can be easily identified from the roadway that is used for the site-specific address.

- (1) It shall be the duty of the property owner of the structure, building or mobile home fronting on a street to properly display the number which has been assigned by the planning department.
- (2) The site-specific address number must be displayed by the main entrance to the building or on the street end of the building nearest the road so that it is most clearly visible from the street.
- (3) If a building is more than 500 feet from the centerline of the roadway to which the building fronts or if the building is not visible from the roadway, the site specific address number shall also be displayed at the end of the driveway nearest the roadway which provides access to the building. Such display should be at least six inches above driveway level with the numbers facing the street. (The numbers may be displayed on the mailbox.)
- (4) All site-specific address numbers shall be displayed numerically. Numbers may be displayed in script as long as numeric numbers are also properly mounted. When two or more digits are displayed, each successive number may be either adjacent or offset top to bottom or left to right.
- (5) Single-family dwelling numerals shall be posted and maintained so as to be legible from the road the unit is addressed to.
- (6) Numerals for multiple dwelling units and nonresidential buildings shall be placed on the front of the building facing the road or on the end of the building nearest the road and/or parking lot. These numerals shall be legible from the street that the unit is addressed to.

- (7) Mobile home park lots shall have sequential address numbers throughout the park. Each lot or unit will have a separate address number assigned. Each mobile home park space or unit shall be marked uniformly within the park. These numbers shall be affixed to either a pole or the unit itself on the lot entrance side. These numbers must also be legible from the street the unit is addressed to.
- (8) Numerals placed on mailboxes for U.S. Postal Service identification shall not be a substitute for the site-specific address.
- (9) Certain large-scale developments such as Kelly Springfield Tire Co. and Marketfair Mall may elect to place one large sign near their entrance. In these situations, where the building setback would make it impossible to see the number affixed to the building, it would be acceptable to incorporate the address number as part of the sign.

(Ord. of 11-24-92)

Secs. 4-186—4-190. - Reserved.

#### DIVISION 4. - ADMINISTRATION AND ENFORCEMENT

##### Sec. 4-191. - Enforcement.

- (a) All owners shall be properly notified of the official street name and property address. This address may also be used for receipt of the U.S. mail.
- (b) Owners of buildings which do not comply with this article will be notified and requested to meet these requirements within 30 days from the date of the notification. A warning notice will be issued after 30 days if the requirements have not been met. If the owner does not comply voluntarily with this article within 30 days of the delivery of the warning notice by registered or certified mail or by hand delivery to the building in violation, enforcement action pursuant to G.S. 153A-123 may be initiated.
- (c) No building permit for any purpose shall be issued until an official site-specific address number has been assigned for each principal structure. Exceptions may be made during the initial property addressing project period in which case a condition to the permit shall require addressing when available. Rural route and box numbers may continue to be assigned by the U.S. Postal Service in areas where street addresses have not been assigned.
- (d) Officials of the following Cumberland County departments may issue warning notices: planning department and inspections department.
- (e) The director of the county planning department is hereby authorized to promulgate pertinent manuals and procedures for the administration of this article.

(Ord. of 11-24-92)

##### Sec. 4-192. - Appeal.

Action taken by the planning department or under guidelines set forth in this article may be appealed by the property owner(s). Such an appeal must be filed in writing within 30 working

days of written notification of required owner action. Further appeals may be made to the county board of county commissioners.

(Ord. of 11-24-92)

Sec. 4-193. - Violations.

It shall be unlawful for any person(s) without the written consent of Cumberland County to:

- (1) Name or designate the name of any public road, neighborhood public road, private subdivision street or private mobile home park road, in the unincorporated areas.
- (2) Erect any street sign on any public road, neighborhood public road, private subdivision street or private mobile home park road in the unincorporated areas of Cumberland County, without the written approval of the county planning department.
- (3) Erect any street sign on any roadway, public or private, in the unincorporated areas of Cumberland County, which does not meet the current county sign specifications.
- (4) Remove, deface, damage, or obscure a street sign in the jurisdiction of this article.
- (5) Number or assign an address to any principal structure without the written approval of Cumberland County.
- (6) Name a private street or road which duplicates or is substantially similar to the name of an existing street or road within the unincorporated areas of Cumberland County.

(Ord. of 11-24-92)

Sec. 4-194. - Remedies and penalties.

- (a) Any person violating a provision of this article shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500.00 or imprisonment of not more than 30 days, as provided by North Carolina General Statutes 14-4.
- (b) Any violation of this article may be subject to civil remedies as set forth in G.S. 153A-123.
  - (1) Violation of a provision of this article shall subject the offender to the assessment of a civil penalty in the amount of \$50.00 per day. Each day's continuing violation shall constitute a separate offense for the purpose of assessing a penalty.
  - (2) The director of the county planning department or his designee is authorized to investigate violations of this ordinance and, upon a determination that such a violation has occurred, issue a civil penalty citation in such form as the director may provide. Citations shall be payable at the office of the planning department designated by the director to receive such payments.
  - (3) Penalties assessed shall be recovered by the county in a civil action in the nature of debt if the offender does not pay the civil penalty within 30 days after the citation has been issued.

(Ord. of 11-24-92)

## Sec. 4-195. - Separability.

Should any section or provision of this article be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the article as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. of 11-24-92)

## Sec. 4-196. - Conflict.

Insofar as the provisions of this article are inconsistent with the provisions of any other law concerning or affecting property addressing, except a provision of state or federal law, the provisions of this article shall control.

(Ord. of 11-24-92)

## Sec. 4-197. - Effective date.

This article shall be in full force and effect upon adoption by the county board of commissioners.

(Ord. of 11-24-92)

APPENDIX 1	
Alley - Aly	Heights - Hts
Annex - Anx	Highway - Hwy
Arcade - Arc	Hill - Hl
Avenue - Ave	Hills - Hls
Bayou - Byu	Hollow - Holw
Beach - Bch	Inlet - Inlt
Bend - Bnd	Island - Is
Bluff - Blf	Islands - Iss
Bottom - Btm	Isle - Isle

Boulevard - Blvd	Junction - Jct
Branch - Br	Key - Ky
Bridge - Brg	Knolls - Knls
Brook - Brk	Lake - Lk
Burg - Bg	Lakes - Lks
Bypass - Byp	Landing - Lndg
Camp - Cp	Lane - Ln
Canyon - Cyn	Light - Lgt
Cape - Cpe	Loaf - Lf
Causeway - Cswy	Locks - Lcks
Center - Ctr	Lodge - Ldg
Circle - Cir	Loop - Loop
Cliffs - Clfs	Mall - Mall
Club - Clb	Manor - Mnr
Corner - Cor	Meadows - Mdws
Corners - Cors	Mill - Ml
Course - Crse	Mills - Mls
Court - Ct	Mission - Msn
Courts - Cts	Mount - Mt
Cove - Cv	Mountain - Mtn



Creek - Crk	Neck - Nck
Crescent - Cres	Orchard - Orch
Crossing - Xing	Oval - Oval
Dale - Dl	Park - Park
Dam - Dm	Parkway - Pky
Divide - Dv	Pass - Pass
Drive - Dr	Path - Path
Estates - Est	Pike - Pike
Expressway - Expy	Pines - Pines
Extension - Ext	Place - Pl
Fall - Fl	Plain - Pln
Falls - Fls	Plains - Plns
Ferry - Fry	Plaza - Plz
Field - Fld	Point - Pt
Fields - Flds	Port - Pt
Flats - Flt	Prarie - Pr
Ford - Frd	Radial - Radl
Forest - Frst	Ranch - Rnch
Forge - Frg	Rapids - Rpds
Fork - Frk	Rest - Rst

Forks - Frks	Ridge - Rdg
Fort - Ft	River - Riv
Freeway - Fwy	Road - Rd
Gardens - Gdns	Row - Row
Gateway - Gtwy	Run - Run
Glen - Gln	Shoal - Shl
Green - Grn	Shoals - Shls
Grove - Grv	Shore - Shr
Harbor - Hbr	Shores - Shrs
Haven - Hvn	Spring - Spg
Springs - Spgs	Brdge - Brg
Spur - Spur	Brg - Brg
Square - Sq	Bridge - Brg
Station - Sta	Brk - Brk
Stravenue - Stra	Brnch - Br
Stream - Strm	Brook - Brk
Street - St	Brooks - Brk
Summit - Smt	Btm - Btm
Terrace - Ter	Burg - Bg
Trace - Trce	Burgs - Bg

Track - Trak	Byp - Byp
Trail - Trl	Bypa - Byp
Trailer - Trlr	Bypas - Byp
Tunnel - Tunl	Bypass - Byp
Turnpike - Tpke	Byps - Byp
Union - Un	Byu - Byu
Valley - Vly	Camp - Cp
Viaduct - Via	Canyn - Cyn
View - Vw	Canyon - Cyn
Village - Vlg	Cape - Cpe
Ville - Vl	Causeway - Cswy
Vista - Vis	Causway - Cswy
Walk - Walk	Cen - Ctr
Way - Way	Cent - Ctr
Wells - Wls	Center - Ctr
Allee - Aly	Centers - Ctr
Alley - Aly	Centr - Ctr
Ally - Aly	Cir - Cir
Aly - Aly	Circ - Cir
Anex - Anx	Circl - Cir

Annex - Anx	Circle - Cir
Annx - Anx	Circles - Cir
Anx - Anx	Clb - Clb
Arc - Arc	Clf - Clfs
Arcade - Arc	Clfs - Clfs
Av - Ave	Cliff - Clfs
Ave - Ave	Cliffs - Clfs
Aven - Ave	Club - Clb
Avenu - Ave	Cmp - Cp
Avenue - Ave	Cnter - Ctr
Avn - Ave	Cntr - Ctr
Avnue - Ave	Cnyn - Cyn
Bayoo - Byu	Cor - Cor
Bayou - Byu	Corner - Cor
Bch - Bch	Corners - Cors
Beach - Bch	Cors - Cors
Bend - Bnd	Course - Crse
Bg - Bg	Court - Ct
Blf - Blf	Courts - Cts
Bluf - Blf	Cove - Cv

Bluff - Blf	Coves - Cv
Bluffs - Blf	Cp -Cp
Bldv - Blvd	Cpe -Cpe
Bnd - Bnd	Crcl - Cir
Bot - Btm	Crcle - Cir
Bottm - Btm	Crecent - Cres
Bottom - Btm	Creek - Crk
Boul - Blvd	Cres - Cres
Boulevard - Blvd	Crescent - Cres
Boulv - Blvd	Cresent - Cres
Br - Br	Crk - Crk
Branch - Br	Crossing - Xing
Crsent - Cres	Freeway - Fwy
Crse - Crse	Freewy - Fwy
Crsent - Cres	Frg - Frg
Crsnt - Cres	Frk - Frk
Crssng - Xing	Frks - Frks
Cswy - Cswy	Frry - Fry
Ct - Ct	Frst - Frst
Ctr - Ctr	Frt - Ft

Cts - Cts	Frway - Fwy
Cv - Cv	Frwy - Fwy
Cyn - Cyn	Fry - Fry
Dale - Dl	Ft - Ft
Dam - Dm	Fwy - Fwy
Div - Dv	Garden - Gdns
Divide - Dv	Gardens - Gdns
Dl - Dl	Gardn - Gdns
Dm - Dm	Gateway - Gtwy
Dr - Dr	Gatewy - Gtwy
Driv - Dr	Gatway - Gtwy
Drive - Dr	Gdn - Gdns
Drives - Dr	Gdns - Gdns
Drv - Dr	Glen - Gln
Dv - Dv	Glens - Gln
Dvd -Dv	Gln - Gln
Est - Est	Grden - Gdns
Estate - Est	Grdn - Gdns
Estates - Est	Grdns - Gdns
Ests - Est	Green - Grn



Exp - Expy	Greens - Grn
Expr - Expy	Grn - Grn
Express - Expy	Grov - Grov
Expw - Expy	Grove - Grv
Expy - Expy	Groves - Grv
Ext - Ext	Grv - Grv
Extension - Ext	Gtway - Gtwy
Extn - Ext	Gtwy - Gtwy
Extnsn - Ext	Harb - Hbr
Exts - Ext	Harbor - Hbr
Fall - Fl	Harbors - Hbr
Falls - Fls	Harbr - Hbr
Ferry - Fry	Haven - Hvn
Field - Fld	Havn - Hvn
Fields - Flds	Hbr - Hbr
Fl - Fl	Height - Hts
Flat - Flt	Heights - Hts
Flats - Flt	Highway - Hwy
Fld - Fld	Highway - Hwy
Flds - Flds	Hill - Hl

Fls - Fls	Hills - Hls
Flt - Flt	Hiway - Hwy
Flts - Flt	Hiwy - Hwy
Ford - Frd	HI - HI
Fords - Frd	Hllw - Holw
Forest - Frst	Hls - Hls
Forests - Frst	Hollow - Holw
Forg - frg	Holw - Holw
Forge - Frg	Holws - Holw
Forges - Frg	Hrbor - Hbr
Fork - Frk	Ht - Hts
Forks - Frks	Hts - Hts
Fort - Ft	Hvn - Hvn
Frd - Frd	Hway - Hwy
Hwy - Hwy	Mission - Msn
Inlet - Inlt	Missn - Msn
Inlt - Inlt	MI - MI
Is - Is	Mls - Mls
Island - Is	Mnr - Mnr
Islands - Iss	Mnrs - Mnr

Isle - Isle	Mnt - Mt
Isles - Isle	Mntain - Mtn
Islnd - Is	Mntn - Mtn
Islnds - Iss	Mntns - Mtn
Jct - Jct	Mount - Mt
Jction - Jct	Mountain - Mtn
Jctn - Jct	Mountin - Mtn
Jctns - Jct	Msn - Msn
Jcts - Jct	Mssn - Msn
Junction - Jct	Mt - Mt
Junctn - Jct	Mtin - Mtn
Juncton - Jct	Mtn - Mtn
Key - Ky	Nck - Nck
Keys - Ky	Neck - Nck
KnI - Knls	Orch - Orch
Knls - Knls	Orchard - Orch
Knol - Knls	Orchrd - Orch
Knoll - Knls	Oval - Oval
Knolls - Knls	Ovl - Oval
Ky - Ky	Park - Park

Kys - Ky	Parks - Park
Lake - Lk	Parkway - Pky
Lakes - Lks	Pass - Pass
Landing - Lndg	Path - Path
Lane - Ln	Paths - Path
Lanes - Ln	Pike - Pike
Lck - Lcks	Pikes - Pike
Lcks - Lcks	Pine - Pnes
Ldg - Ldg	Pines - Pnes
Ldge - Ldg	Pkway - Pky
Lf - Lf	Pkway - Pky
Lgt - Lgt	Pkwys - Pky
Light - Lgt	Pky - Pky
Lights - Lgt	Pl - Pl
Lk - Lk	Place - Pl
Lks - Lks	Plain - Pln
Ln - Ln	Plaines - Plns
Lndg - Lndg	Plaza - Plz
Lndng - Lndg	Pln - Pln
Loaf - Lf	Plns - Plns

Lock - Lcks	Plz - Plz
Locks - Lcks	Plza - Plz
Lodg - Ldg	Pnes - Pnes
Lodge - Ldg	Point - Pt
Loop - Loop	Points - Pt
Loops - Loop	Port - Prt
Mall - Mall	Ports - Prt
Manor - Mnr	Pr - Pr
Manors - Mnr	Prarie - Pr
Mdw - Mdws	Prk - Park
Mdws - Mdws	Prr - Pr
Meadow - Mdws	Prt - Prt
Meadows - Mdws	Prts - Prt
Medows - Mdws	Pt - Pt
Mill - MI	Pts - Pt
Mills - Mls	Rad - Radl
Radial - Radl	Strav - Stra
Radiel - Radl	Strave - Stra
Radl - Radl	Straven - Stra
Ranch - Rnch	Stravenue - Stra

Ranches - Rnch	Stravn - Stra
Rapid - Rpds	Stream - Strm
Rapids - Rpds	Street - St
Rd - Rd	Streets - St
Rdg - Rdg	Streme - Strm
Rdge - Rdg	Strm - Strm
Rdgs - Rdg	Strt - St
Rds - Rd	Strvn - Stra
Rest - Rst	Strvnue - Stra
Ridge - Rdg	Sumit - Smt
Ridges - Rdg	Sumitt - Smt
Riv - Riv	Summit - Smt
River - Riv	Ter - Ter
Rivr - Riv	Terr - Ter
Rnch - Rnch	Terrace - Ter
Rnchs - Rnch	Tpk - Tpke
Road - Rd	Tpke - Tpke
Roads - Rd	Trace - Trce
Row - Row	Traces - Trce
Rpd - Rpds	Track - Trak

Rpds - Rpds	Tracks - Trak
Rst - Rst	Trail - Trl
Run - Run	Trailer - Trlr
Rvr - Riv	Trails - Trl
Shl - Shl	Trak - Trak
Shls - Shls	Trce - Trce
Shoal - Shl	Trk - Trak
Shoals - Shls	Trks - Trak
Shoar - Shr	Trl - Trl
Shoars - Shrs	Trlr - Trlr
Shore - Shr	Trlrs - Trlr
Shores - Shrs	Trls - Trl
Shr - Shr	Trnpk - Tpke
Shrs - Shrs	Tunel - Tunl
Smt - Smt	Tunl - Tunl
Spg - Spg	Tunls - Tunl
Spgs - Spgs	Tunnel - Tunl
Spng - Spg	Tunnl - Tunl
Spngs - Spgs	Turnpike - Tpke
Spring - Spg	Turnpk - Tpke



Springs - Spgs	Un - Un
Sprng - Spg	Union - Un
Sprngs - Spgs	Unions - Un
Spur - Spur	Valley - Vly
Spurs - Spur	Valleys - Vly
Sq - Sq	Vally - Vly
Sqr - Sq	Vdct - Via
Squre - Sq	Via - Via
Squ - Sq	Viaduct - Via
Square - Sq	Viaduct - Via
Squares - Sq	View - Vw
St - St	Views - Vw
Sta - Sta	Vill - Vlg
Station - Sta	Villag - Vlg
Statn - Sta	Village - Vlg
Stn - Sta	Ville - Vl
Str - St	Villg - Vlg
Stra - Stra	Villiage - Vlg
Vis - Vis	
Vist - Vis	

Vista - Vis	
Vl - Vl	
Vlg - Vlg	
Vlgs - Vlg	
Vlly - Vly	
Vly - Vly	
Vlys - Vly	
Vst - Vis	
Vsta - Vis	
Vw - Vw	
Vws - Vw	
Walk - Walk	
Walks - Walk	
Way - Way	
Ways - Way	
Well - Wls	
Wells - Wls	
Wls - Wls	
Wy - Way	
Xing - Xing	



## ARTICLE XX ADMINISTRATIVE PROVISIONS

### **SECTION 2001. PURPOSE.**

The purpose of this ordinance is to establish regulations and procedures for the platting, recording and development of real property within Cumberland County. The Board of Commissioners of Cumberland County hereby find these regulations and procedures necessary in order to promote the orderly development of the County; provide for the coordination and dedication of streets and thoroughfares; provide for the reservation or dedication of land for other public purposes, as set forth herein; promote the proper installation of streets, public utilities and other community facilities, promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development; ensure proper description, identification, monumentation and recording of subdivided properties; and generally promote the public health, safety and general welfare.

**State Statute Reference:** N.C. GEN. STAT., Chapter ~~153A~~ [160D](#), ~~Planning and Regulation of Development~~ [Local Planning and Development Regulation](#)

### **SECTION 2002. TITLE.**

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

*(Amd. 12-19-11)*

### **SECTION 2003. AUTHORITY AND ENACTMENT.**

The Board of Commissioners of Cumberland County, pursuant to the authority conferred by ~~Chapter 153A, Article 18, Part 2, and Section 153A-330 160D-801 et seq.~~ [Chapter 160D, Article 8](#), of the General Statutes of North Carolina, does hereby ordain and enact into law these articles and sections.

### **SECTION 2004. JURISDICTION.**

This ordinance shall control the subdivision and development of land, as defined herein, lying within the boundaries of Cumberland County, except to the extent of lawful subdivision regulations by any municipality in the County as authorized by law.

**SECTION 2005. APPLICATION.**

All preliminary plans and final plats for the subdivision, as defined herein, of land shall conform to the requirements of this ordinance and the County Zoning Ordinance and shall be submitted in accordance with the procedures and specifications established within the ordinances. Plans for developments, such as manufactured home parks, group developments, zero lot line, townhomes, and condominiums (unit ownership) shall be submitted in the same manner as and are subject to these provisions the same as other subdivision plats or plans.

**SECTION 2006. ORDINANCE ADMINISTRATOR.**

The Board of Commissioners of Cumberland County, as permitted by N.C. GEN. STAT. § ~~153A-330~~ [160D-801](#) *et seq.*, delegates to the Cumberland County Planning & Inspections Director, or the director's designee, authority to grant preliminary development plan and final plat approval in accordance with the provisions of this ordinance, with appeal of the Cumberland County Planning & Inspections Director's final decision to be heard and decided by the Cumberland County Planning Board.

**SECTION 2007. STAFF CONFLICT-OF-INTEREST.**

[No Cumberland County Planning & Inspections staff member shall make a final decision on an administrative decision required by the Cumberland County Subdivision Ordinance and NC General Statute Chapter 160D 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.](#)

**SECTION 2007. PLANS/PLATS APPROVAL REQUIRED.**

After the effective date of this ordinance, or the effective date of any subsequent amendment thereto, no subdivision plat or development plan of properties, as defined herein, within the jurisdiction of this ordinance and the County Zoning Ordinance, shall be permitted, filed or recorded until it shall have been submitted to and approved by the Planning and Inspections Department as hereinafter provided; no permit shall be issued for the development of any land until such time as the development plan or subdivision plat has been finally approved and if applicable, recorded with the County Register of Deeds or until such time as the plan has received formal approval where a final plat is not required; and no land shall be sold or transferred by reference to a subdivision plat, except those recorded prior to the effective date of this ordinance, that has not been approved

and recorded in accordance with the provisions of this ordinance.

**SECTION 2008. FEES.**

For each preliminary or development plan, final plat, and any site plan as required under the County Zoning Ordinance, the owner or agent of said property shall pay a nonrefundable filing fee to "Cumberland County" in accordance with a fee schedule ~~recommended by the Planning Board and~~ approved by the County Commissioners.

(This page intentionally left blank.)



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

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

### **SECTION 2101. INTERPRETATIONS OF COMMON TERMS AND WORDS.**

For the purpose of interpreting certain words or terms contained within this ordinance and unless otherwise expressly stated, the following shall apply:

- A. Words used in the present tense include the future tense. Words used in the singular tense include the plural, and words used in the plural tense 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.

### **SECTION 2102. 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 specific 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.

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. *Calculation of measurement.* The spatial separations required by this ordinance shall be calculated as follows:

1. Distance is calculated 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 of structures is calculated by drawing a straight line from the closest point on the perimeter of the exterior wall, structure or bay to another exterior wall, structure, bay, well, or septic, as applicable.

3. Separation of uses is calculated by drawing a straight line from the closest point of the property boundary to the nearest property boundary line, which contains the use requiring the separation.

4. Area is calculated by applying the standard mathematical formulas, applying common conversion factors as necessary.

### **SECTION 2103. DEFINITIONS OF SPECIFIC TERMS AND WORDS.**

In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

**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, navigable stream or other water source.

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

**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.

**Alley:** A 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.

**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, or as an accessory use in a single home or a commercial building.

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

**Board of Commissioners or Commissioners:** The Cumberland County Board of Commissioners.

**Buffer:** An opaque fence, wall, berm, hedge or other natural planting, or a combination thereof, restricting the view from adjoining streets and/or abutting properties thus providing a functional and/or visual separation of uses of property.

**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 enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, trailers, manufactured homes and attached or unattached structures consisting of roof and supporting members, and similar structures whether stationary or movable.~~ Any structure used or intended for supporting or sheltering any use or occupancy.

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

**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.).

**Building Site:** A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of a single-family residence or business and shall be sufficient in size to contain the structure to be constructed thereon and any other proposed components of the property that are to be conveyed.

**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. Grave spaces or burial park for earth interment;
- B. Mausoleum; and
- C. Columbarium.

**Cemetery Grave Space:** A space of ground in a cemetery intended to be used for the interment in the ground of the remains of a deceased person.

**Certificate of Occupancy:** Official certification that a premise conforms to the provisions of this ordinance, the County Zoning Ordinance and N.C. 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. 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.

**Common Area:** Land and any other portion of a development not individually owned or dedicated for public use, which is designed and intended for the use or enjoyment of the residents of the development.

**Condominium (Unit Ownership) Development:** A project, governed by the Unit Ownership provisions of this ordinance and regulated by the *NC Unit Ownership Act*, N. C. GEN. STAT. 47A-1, *et seq.*, consisting of multiple individually owned units in a multi-unit structure with jointly owned undivided interest in common of the land on which the structure(s) stand and other shared areas and facilities (common area).

**Conservancy:** Any legally established incorporated entity, whether for profit or nonprofit, whose organization is dedicated to the protection of the environment and natural resources.

**County:** Cumberland County.

**Crosswalk:** A right-of-way dedicated to public use, which cuts across a right-of-way to facilitate pedestrian access to adjacent streets and properties.

**Dedication:** A gift from by the owner of property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication shall be accomplished by written instrument and is completed with an acceptance.

**Density:** The average number of families, persons, housing units or buildings per unit of land.

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

**Development:** Any land disturbing activity subject to the provisions of this ordinance resulting in new construction of a principal structure on a lot, addition to an existing principal structure that results in a fifty percent or more increase in size to the existing principal structure, or a subdivision of land. *(Amd. 12-19-11)*

**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 or portion thereof designed, arranged or used for permanent living quarters. The term "dwelling" shall not be deemed to include a travel trailer, recreational vehicle, motel, hotel, tourist home or other structures designed for transient residence.~~ 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.

**Dwelling, Multiple-Family:** A residence designed for or occupied by two or more families ~~with separate housekeeping and cooking facilities for each.~~ consisting of two or more dwelling units.

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

**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.](#)

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

**Farmland Protection Area:** An area defined and adopted by the Board of Commissioners as denoted on the Land Use Plan Map for protection of the agricultural industry; the rural character; and the preservation of farmland.

**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.

**Health Department:** The Cumberland County Public Health Department, which includes County Environmental Health.

**High Density:** Residential development having a density of 15 or more dwelling units per acre.  
(Amd. 12-19-11)

**High Voltage Line:** Any electrical line 25kv or greater.

**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.

**Land Area, Gross:** The square footage of an entire site included within the external boundary of the property to be developed.

**Land Area, Net:** The square footage of an entire site, excluding public and private rights-of-way, required to meet the minimum zoning district dimensional provisions as required by the County's Zoning Ordinance, for which the property is zoned.

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

**Lot, Corner:** A lot abutting the intersection of two or more streets, or a lot abutting a curved street or streets, in which streets have an angle of intersection of not more than

**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 or periphery lot.

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

**Lot, Periphery:** A lot with one or more property line(s) comprising at least a portion of the boundary of the property to be subdivided or developed.

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

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

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

**Low Density:** Residential development having a density of 2.2 to six dwelling units per acre.  
(Amd. 12-19-11)

**Manufactured Home:** A structure designed to be used as a dwelling unit, which has been constructed and labeled indicating compliance with the U.S. Department of Housing and Urban Development (HUD) administered *National Manufactured Housing Construction and Safety Standards Act of 1974*, as amended.

**Manufactured Home, Class A:** A dwelling unit constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD) 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 N.C. Department of Insurance (NCDOI) 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 N. C. Department of Insurance (NCDOI), attached firmly to the primary structure and anchored securely to the ground; and

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

**Manufactured Home, Class B:** A dwelling unit constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify the dwelling unit 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.

**Manufactured Home Park:** Any site or tract of land with more than two spaces intended to be occupied or 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.

**Manufactured Home Space:** A plot of land within a manufactured home park designed for

the accommodation of a single manufactured home.

**Medium Density:** Residential development having a density of greater than six and less than 15 dwelling units per acre.

(Amd. 12-19-11)

**Municipal Influence Area:** An area within the County's jurisdiction, and outside any municipalities' corporate limits, that is assigned by the County Commissioners to a specific municipality where certain development standards of that municipality shall be applicable. The official *Municipal Influence Area Map* for each municipality shall be filed with the appropriate Town Clerk and the Clerk to the County Board of Commissioners and shall be maintained by the Planning and Inspections Department.

**N.C. Department of Transportation (NCDOT):** The local district office of the North Carolina Department of Transportation.

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

**Ordinance:** This document, the Cumberland County Subdivision and Development Ordinance, including any amendments thereto and whenever the effective date of the ordinance is referred to, the reference includes the original effective date and the effective date of any amendments.

(Amd. 12-19-11)

**Parks and Recreation Director:** The individual charged with overseeing the Fayetteville-Cumberland Parks and Recreation Department within a specific area; this definition also includes a designee of the Parks and Recreation Director, or where there is no Parks and Recreation Department, the official designated for the purpose by that affected jurisdiction's governing board.

**Parks and Recreation Master Plan:** The officially adopted document that is the vision of what the County's parks and recreation program and facilities could be in the future, as well as, a plan to make the initiatives written in the plan happen based upon available resources at any given time.

**Planning Board (also known as "Joint Planning Board" or "County Planning Board"):** A planning and advisory board established by the County Board of Commissioners, comprised of appointed members, who make recommendations to the Board of County Commissioners and other governing bodies on planning and land use matters. The board's official title is "CumberlandCountyJointPlanningBoard".

**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.

**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.

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

**Plat/Plan:** A preliminary or final map, usually of land which is to be or has been subdivided or otherwise developed, 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 other development meets all required standards of this ordinance and other applicable rules and regulations of the County.

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

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

**Private Water System:** Any water system that is not public and does not meet the definition for “Public Water Supply” below.

**Public Water/Sewer Systems:** Includes any municipal, county, sanitary district, community, and privately-owned water and/or sewer systems as regulated and controlled by the N. C. State Utilities Commission and the Health Department.

**Public Water Supply:** A water provider that has 15 or more connections or serves more than 25 customers and is regulated by the State of North Carolina.

A. *Community water.* Serves 15 or more connections or serves more than 25 year round residents (example: rest home).

B. *Non-community water.* Serves 25 of the same individuals six or more months out of the year (example: school or day care facility).

C. *Transient non-community water.* Serves 25 or more individuals at least 60 days out of the year, not necessarily by the same individuals.

D. *Purchased water system.* Water purchased from a public water supply.

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

**Quasi-judicial hearing/decision:** A hearing where the decision is involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

**Reservation:** A reservation of land does not involve any transfer of property rights; it simply constitutes an obligation to keep property free from development for a period of time for a specific purpose.

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

**Rural density:** Residential development having density of one or less dwelling units per acre.  
(Amd. 12-19-11)

**Setback:** The required distance 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.

**Sidewalk:** An improved pedestrian surface that is typically located adjacent to a roadway and/or is intended to facilitate pedestrian access from one point to another.

**Site Plan:** A scaled drawing depicting uses and structures proposed for a parcel of land as required by this ordinance. It includes such things as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, building footprints, 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 County Zoning Ordinance.

**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.

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

**Street, Private:** Any road, street, or alley that is not publicly owned or maintained and is used for access by the occupants of the development, their guests, and any representative of a governmental agency for purposes of performing a designated official function. (This definition does not include neighborhood public roads, cart paths and ingress/egress easements.)

**Street, Public:** A right-of-way maintained by a public entity and intended for vehicular traffic. The word "street" includes, but is not limited to, "road, freeway, expressway and thoroughfare." The Highway Plan and N.C. Department of Transportation classify streets as follows:

A. *Freeways and expressways.* The primary function of freeways and expressways is to move large volumes of inter-urban, inter-county and interstate traffic. They are not intended to serve the abutting property and, therefore, should provide limited access with grade separations at all intersections. They should be at least four-lane divided facilities permitting as high an average operation speed as legal and should connect the major economic, recreation and population centers of the county with those of the state and nation.

B. *Major thoroughfares.* Primarily for the movement of heavy volumes of traffic, major thoroughfares should form connections with the industrial, commercial and population centers within the County and with the major roads in neighboring in the surrounding areas. Depending upon anticipated traffic volumes and adjacent development, they may be two-lanes, four-or- more lanes undivided, or four-or-more-lanes divided facilities with either limited or controlled access and with major intersections separated. Though their primary function is to serve traffic, they may also serve abutting property with controlled access.

C. *Minor thoroughfares (collectors).* The main function of the minor thoroughfares is to collect traffic from the local roads and carry it to the major thoroughfares. They should be designed to serve a limited area with no access control or grade separation.

D. *Local street.* A local service street designed primarily for access to abutting properties.

E. *Cul-de-sac or hammerhead.* A local street permanently terminated by a turn-around.

F. *Marginal access street (service road)*. A local street that parallels and is immediately adjacent to a major thoroughfare, freeway or expressway, and which provides access to abutting property and protection from through traffic.

**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.

**Subdivision:** For the purpose of this ordinance, "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) on or after August 22, 1984 and shall include all divisions of land involving the dedication of a new street or a change in existing streets; however, the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations.

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

C. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

D. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the County Subdivision and Development Ordinance.

E. The platting of individual grave spaces within a cemetery.

However, plats in categories "A" and "D" above shall have the Planning Board's stamp "No Approval Required" before filing in the County Register of Deeds' office inasmuch as a determination must be made as to whether or not the resultant lots are equal to or exceed the standards set forth in this ordinance.

**Suburban Density:** Residential development having a density of less than 2.2 and greater than one dwelling units per acre.

(Amd. 12-19-11)

**Townhome Development:** A project, governed by the *Unit Ownership* provisions of this ordinance, consisting of attached units in conjunction with a separate lot or lots of

common ownership, regardless of whether it is designed for residence, office, the operation of any industry or business, or for any other type of independent use, and wherein each unit has at least one vertical wall extending from ground to roof dividing it from adjoining units, and each unit is separately owned, with the owner of such unit having title to the land on which it sits.

**Voluntary Agricultural District:** A North Carolina program in which an owner of farmland may on their initiative apply to participate in and is designed to preserve and protect farmland from non-farm development, recognizing the importance of agriculture to the economic and social wellbeing of the State.

**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.

**Zero Lot Line Development:** A development including, but not limited to, residential lots, patio houses, townhomes and non-residential structures including one or more structures comprising at least two single-family residences or non-residential structures, whether attached or detached, intended for separate ownership.



**ARTICLE XXII  
PRELIMINARY SUBDIVISION AND DEVELOPMENT PLAN  
APPROVAL**

**SECTION 2201. PRE-APPLICATION.**

Whenever a subdivision or other development is proposed to be made and before any improvements shall be made, the developer shall cause a preliminary plan to be prepared. [Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.](#) The preliminary plan shall comply fully with this ordinance and with the health, zoning and other applicable regulations in effect at the time the plan is submitted for preliminary approval. Before filing a preliminary plan for review, the developer is encouraged to submit a pre- application sketch plan to the Planning & Inspections Department, hereinafter: Department, for comments and suggestions.

**SECTION 2202. PRELIMINARY PLAN SUBMISSION.**

A. The preliminary plan in such form as required by Section 2203 and in such number of copies deemed sufficient by the Planning & Inspections Director, hereinafter "Director," shall be submitted, with the appropriate completed application to the Department.

B. The Department shall distribute the preliminary plan to the various affected land-use related agencies as determined by the Director and shall review the preliminary plan to determine its compliance with the provisions of this ordinance and other officially adopted regulations, plans and policies. The Department may negotiate for such other changes as may be found desirable.

C. After such review and negotiations, the Department may approve the plan and state the conditions of such approval, if any, or shall disapprove the plan and state its reasons, therefore. Except where extenuating circumstances exist and where additional information is required for review of the plan, the Department shall issue a final ruling within 12 working days from date of submittal of the preliminary plan.

D. In addition to approving waivers, the Planning Board shall decide all conditions of approval where the Director and developer cannot reach agreement - see Section 2601.

**SECTION 2203. PRELIMINARY PLAN AND SUPPORTING DATA.**

The preliminary plan shall be drawn to scale of not less than 200 feet to the inch nor more than 20 feet to the inch. It should be superimposed on a topographic map with contour lines shown at one- or two-foot intervals. In addition, the preliminary plan shall include the following:

A. *Title data.* Subdivision or development name, the names and addresses of the owner(s) or the designer of the plan, the scale, date and north point.

B. *Vicinity sketch.* A key map or vicinity sketch showing the subject property's general location in relation to an area of the County.

C. *Existing data.* Location of existing and platted property; total acreage of proposed development; existing structures, culverts, bridges, watercourses, railroads, political boundary lines, zoning district lines, parks, location of easements and name of easement holder; right(s)-of-way name and width, whether public or private, on and adjoining the land proposed for development; and the names of adjoining property owners.

D. *Data relating to proposed subdivision or other development.* The names, locations and dimensions of proposed streets, alleys, crosswalks, lots, easements, building setback lines, *Special Flood Hazard areas*, parks, playgrounds and other open spaces.

E. *Data relating to surrounding area.* Where the preliminary plan submitted includes only a part of the developer's tract, an overall sketch showing the prospective future street system, proposed public open spaces and other features for the development of the entire tract shall accompany the preliminary plan.

F. *Utility plans.* The preliminary plan shall contain a statement as to the type of intended water and sewer service. Where public water and/or sewer is not to be provided, the preliminary plan shall contain a statement as to the proposed method of water supply and/or sewage disposal.

G. *Street cross sections.* When required by this ordinance, typical cross sections of proposed streets shall be drawn, showing width and proposed construction of roadways at a scale of not less than 30 feet to the inch.

H. *Other improvements.* At the discretion of the Director, where other improvements are required or are to be provided in the development, appropriate plans shall accompany or shall be incorporated into the preliminary plan.

**SECTION 2204. EFFECT OF PRELIMINARY PLAN APPROVAL.**

Where preliminary plan approval is granted, the developer may then proceed to construct improvements in accordance with the requirements of this ordinance, the County Zoning Ordinance and other applicable regulations, and, if required, to submit the final plat for approval for recordation. Where approval is granted, the preliminary plan shall be approved or conditionally approved initially for a period of time not to exceed two calendar years. Extensions may be approved for subsequent two calendar year time periods provided that a request for extension is made prior to the expiration of the approval and provided that substantial progress is made or is being made toward the completion of the development. [Preliminary plan approval shall be provided to the applicant in writing and electronic form if electronic contact information is provided. Development approvals shall run with the land.](#)

**SECTION 2205. CONTRACTS TO SELL OR LEASE REFERENCING APPROVED PRELIMINARY PLAN.**

The terms of this ordinance shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plan for which a final plat has not yet been properly approved provided that the provisions of N. C. GEN. STAT. § ~~153A-334~~ [160D-807](#) are complied with.

(This page intentionally left blank.)

## ARTICLE XXIII IMPROVEMENT AND DESIGN STANDARDS

### **SECTION 2301. GENERAL.**

A. *Conformity.* All proposed subdivisions or developments regulated by the provisions of this ordinance or the County Zoning Ordinance, shall comply with the provisions of this ordinance, the County Zoning Ordinance, and other applicable local, State and Federal regulations.

B. *Reasonable relationship.* Any proposed subdivision or other development subject to the provisions of this ordinance shall also be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to existing or amended plans and written adopted policies of the Planning Board and the Board of Commissioners.

C. *Recorded plat.* A final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance and the County Zoning Ordinance, prior to any subdivision of land and prior to commencement of the placement of any structure or construction on or conveyance of any portion of any subdivision lot.

### **SECTION 2302. AREA-SPECIFIC STANDARDS.**

#### A. *Municipal Influence Areas.*

1. *Municipal Influence Area Application.* The Board of Commissioners may approve and establish a *Municipal Influence Area* (MIA) for a municipality. All subdivisions or developments with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and located within a municipality's MIA shall be designed and constructed in accordance with the subdivision design standards officially adopted by the municipality and explicitly listed in this ordinance, except that no payment in lieu for any required improvement may be charged as a condition of approval of the proposed development for the benefit of any municipality, and no permit or inspection fee can be imposed by the municipality so long as the property proposed for development remains outside that municipality's corporate limits at the time the property is developed. The terms of any interlocal agreement adopted by the County Commissioners and affected governing bodies shall prevail in the event of conflict between the provisions of this ordinance and the agreed upon terms of the interlocal agreement. The subdivision design standards for each municipality are attached to this ordinance as "Exhibit 5" and entitled *MIA Subdivision Design Standards*.

2. *Municipal Influence Area Map.* The official MIA map – see Exhibit 4 – shall be  
August 18, 2008 23  
Cumberland County Subdivision & Development Ordinance  
(Amendments Through [June](#)~~August~~ 21, 2017~~21~~)

maintained by the Planning and Inspections Department and kept on file with the office of the Clerk to the County Board of Commissioners. Each MIA shall be designated with two distinct areas, “10 year” and a “20 year”. The 10 year area shall include the properties with the highest probability of annexation and the municipal development standards shall only apply within the ten year area. Each assigned MIA boundary shall be evaluated every five years.

(Amd. 12-19-11; Amd. 8-21-17)

B. *Sewer Service Area*. The Board of Commissioners may approve and establish a *Sewer Service Area* (SSA). The SSA sets forth an area within which subdivisions and developments should be served by sanitary sewer and shall otherwise be developed according to the provisions of any officially adopted interlocal agreement. Any proposed subdivision or other development inside the boundary of the SSA shall comply with the pertinent provisions governing extension of sanitary sewer and other subdivision and development criteria specifically addressed within any officially adopted interlocal agreement.

C. *Fort Bragg Special Interest Area*. Because of the location of known habitat and forage areas of the protected Red-Cockaded Woodpecker on the properties in and around the military reservations, the community, including the military, has a special interest in any subdivision or other development that occurs on the privately-owned properties in close proximity to the military bases. The official *Fort Bragg Special Interest Area* map, hereby adopted as part of this ordinance, shall be maintained by the Planning and Inspections Department and kept on file with the Clerk to the County Board of Commissioners – see Exhibit 6. Upon receipt for submission of any subdivision or other development subject to review under this ordinance and located within the *Fort Bragg Special Interest Area*, the Planning and Inspections Staff shall forward a copy of the preliminary plan to the military planner assigned to the affected military base and to the local office of the U.S. Fish and Wildlife Service, in addition to the other agencies involved in the review process. The military planner and the Fish and Wildlife representative will then assist the developer in identifying areas where trees should be maintained. While the owner is not obligated, the intent is to encourage clustering of developments in accordance with the special subdivision and development provisions of this ordinance or the County Zoning Ordinance, thus protecting the endangered woodpecker.

D. *School sites*. Where the Land Use Plan identifies an area with a specific location and size of a school site that has been approved jointly by the Board of Commissioners and the County Board of Education as a proposed school site and the proposed school site lies wholly or partially within an area being proposed for subdivision or other development, the land area for the school site shall be reserved if the Board of Education wishes the site to be reserved. The Planning and Inspections Department shall immediately notify the Board of Education upon the submission of a preliminary plan for review and approval

under the provisions of this ordinance or the County Zoning Ordinance. If the Board of Education wishes the site to be reserved, the preliminary plan may not be approved without the reservation of the specific area for the school site. The Board of Education must acquire the site within 18 months after the date the site is reserved; if the site has not been acquired by the Board of Education within the 18-month period, the developer may treat the land as freed of the reservation.

**State statute reference:** N. C. GEN. STAT. § ~~153A-331~~ [160D-804](#)

E. *Public park and recreation sites.* Where the Fayetteville-Cumberland Parks and Recreation Master Plan or other officially adopted parks plan identifies an area with a specific location and size of a site that has been approved jointly by the County Board of Commissioners and the Fayetteville- Cumberland Parks and Recreation Department as a proposed public park or recreation site; hereinafter, *park site*; and the proposed park site lies wholly or partially within an area being proposed for subdivision or other development, the land area for the park site shall be reserved if the Fayetteville-Cumberland Parks and Recreation Department wishes the site to be reserved. The Planning and Inspections Department shall immediately notify the Fayetteville-Cumberland Parks and Recreation Department upon the receipt for submission of a preliminary plan for review and approval under the provisions of this ordinance or the County Zoning Ordinance. If the Fayetteville-Cumberland Parks and Recreation Department wishes the site to be reserved, the preliminary plan may not be approved without the reservation of the specific area for the park site. The Fayetteville-Cumberland Parks and Recreation Department must acquire the site within 18 months after the date the site is reserved; if the site has not been acquired by the Fayetteville-Cumberland Parks and Recreation Department within the 18-month period, the developer may treat the land as freed of the reservation. **State statute reference:** N. C. GEN. STAT. § ~~153A-331~~ [160D-804](#)

F. *Planned public rights-of-way.* Where any portion of a proposed subdivision or other development lies within the proposed right-of-way of any public street or road that is included in an officially adopted *Highway Plan* of the County, or in the event the proposed development is located within any municipality's *Municipal Influence Area*, within any municipality's officially adopted street/highway plans, the right-of-way shall be dedicated or reserved in the location and at the width as adopted in the official plan; provided that no dedication wider than 80 feet shall be required, and provided that reservation of right-of-way shall be required where right of direct access from abutting property is denied. If the subdivision or other development is such that a plat is required to be recorded prior to any development on the site, the dedication and reservation shall be accomplished on the final plat, with the bearings and distances of the required dedication and reservation lines shown; otherwise, a reservation of the property shall be shown on the preliminary plan prior to the plan receiving preliminary approval. Any right-of-way required to be dedicated or reserved shall not be included in the calculation of land area for district dimensional requirements for the zoning district in which the proposed subdivision or other development is located.

**State statute reference:** N. C. GEN. STAT. § ~~153A-331~~ [160D-804](#)

G. *Voluntary Agricultural District.* The *Voluntary Agricultural District* (VAD) is intended to promote agricultural and environmental values and the general welfare of the County and, more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic health of agriculture, and increase protection from non-farm development and other negative impacts on properly managed farms. Approved applications for placement of property within the VAD shall be kept on file at the Planning and Inspections Department and notice of a proposed subdivision, development or other change in property lines for property located within the VAD shall be made to the Cooperative Extension Office immediately upon its submission for approval for recordation.

**State statute reference:** N. C. GEN. STAT. § 106-744

### **SECTION 2303. MINIMUM LOT STANDARDS.**

A. *Compliance with County Zoning Ordinance.* Any subdivision, individual lot or other development created subject to the terms of this ordinance is subject to and shall comply with all applicable provisions of the County Zoning Ordinance.

B. *On-site water and sewer systems.* Lots not served by public water and/or sewer systems shall be large enough and of such physical character to meet County Environmental Health's minimum standards for on-site water and/or sewer systems.

C. *Street frontage.* Except as otherwise provided for in Section 2401, every lot shall abut a public street or private street approved under the terms of this ordinance for at least 20 feet; such frontage (abutting) to be continuous from the property line to building setback line.

D. *Access to certain classified streets.* Direct access shall not be allowed for any single-family residential lot located along any street as defined or classified by the Highway Plan or locally adopted Collector/Feeder Street Plan as major or minor thoroughfare, arterial, collector or feeder street, where feasible and sufficient land depth exists allowing for the proposed lots to be served internally.

E. *Easements.*

1. *Utility.* To provide for existing or future service poles, underground electric and communication lines, public utilities, conduits, drainage facilities, water and sewer lines, an easement not less than ten feet wide, five feet on each side of the common rear lot line or in other locations where necessary, shall be provided. No building or other permanent obstruction, not including fences, shall be erected on any such easement.



2. *Drainage.* Where property to be subdivided is traversed by a watercourse, drainage way, canal or stream, there shall be provided a drainable easement for channel improvement which conforms substantially with the center line of such watercourse, drainage way, canal or stream. Such drainage easement shall be a minimum of 20 feet wide (not necessarily centered) but in no case shall it be required to exceed 20 feet from the top of the bank (natural stream channel) on either side of the watercourse, drainage way, canal or stream. In the event that the subdivision or other development includes a man-made lake, such drainage easement shall conform to the original stream or watercourse where known or a note added to the plat to read as follows:

“In the event that the lake(s) shown on this plat is drained or otherwise lowered to the natural stream level, a public drainage easement for the purpose of channel improvement is hereby dedicated at a minimum width of 20 feet but not to exceed 20 feet from the top of the bank on either side of the natural stream course.”

F. *Lots intended for commercial and industrial uses.* Commercial and industrial lots may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated, provided that the minimum requirements for lots, blocks and zoning are met.

G. *Lots subject to flooding.* Improvements of any lot, street or common area shall not be commenced in a subdivision or other development, or section thereof, subject to this ordinance or the County Zoning Ordinance, unless the developer, builder, landowner or other appropriate permittee has complied with the provisions of the County Flood Damage Prevention Ordinance. The preliminary plans and final plats of subdivisions or other developments, or sections thereof, in which there are areas of special flood hazard, shall have a line or lines drawn thereon delineating the boundaries of such areas within the subdivision or other development. Each such boundary line shall be the same as the boundary line(s) of the *Special Flood Hazard Area*, as defined in the County Flood Damage Prevention Ordinance, and as shown on the official flood maps of Cumberland County, the Flood Insurance Rate Map (FIRM). Any interpretation by the County Engineer may be appealed pursuant to the County Flood Damage Prevention Ordinance.

The preliminary plans and final plats of a subdivision or other development, or section thereof, subject to the provisions of this section, shall be annotated with the following notice when the plan/plat is a depiction of property that is located within the *Special Flood Hazard Area*:

“Notice: Any improvement within the *Special Flood Hazard Area*, or any subsequent revision thereof, is subject to the provisions of the Cumberland County Flood Damage Prevention Ordinance and may be limited or precluded thereby.”

**SECTION 2304. STREETS.**

A. *General criteria.* All subdivision lots or any lot proposed to be developed shall abut a street designated as either public or private and all public or private streets shall be built to the standards of this ordinance, other applicable standards of the County, and the North Carolina Department of Transportation (NCDOT). Public streets shall be designed in accordance with the standards of this ordinance, the NCDOT, or, if the development is located within a municipality's *Municipal Influence Area*, to that municipality's standard (see Exhibit 5, MIA Development Standards). Public streets shall be constructed in such a manner to be eligible for acceptance into the State highway system and shall be put on such system. Private streets shall be developed in accordance with the terms of this ordinance and other applicable Federal, State, and local regulations. The following provisions apply to all streets, whether public or private:

1. *Relation of proposed streets to adjoining street system.* The proposed street system shall extend existing or proposed streets at the same or greater width, but in no case less than the required minimum width, provided that no extension wider than 80 feet shall be required.

2. *Through traffic.* Minor residential streets shall be laid out so as to discourage through traffic.

3. *Access to adjacent property.* The proposed street system shall be designed to provide for the dedication of access to and not to impose undue hardship upon adjacent property adjoining the proposed subdivision or other development. Reserve strips adjoining street right-of-way for the purpose of preventing access to adjacent property shall not be permitted.

4. *Access to parks, schools, etc.* Streets shall be designed, or walkways dedicated to assure convenient access to adjacent parks, playgrounds, schools, and other public places. Dedicated walkways shall not be less than ten feet in width.

5. *Circulation requirements.* The minimum circulation requirements for all development shall be the standards outlined in the *NC Department of Transportation Policy on Street and Driveway Access to North Carolina Highways*.

6. *Marginal access streets.* When a tract of land to be subdivided or developed adjoins a limited access highway, the developer may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots being proposed that are adjacent to the highway.

7. *Street names.* Proposed street names shall not duplicate nor closely approximate phonetically the name of any street anywhere within Cumberland County.

August 18, 2008

28

Cumberland County Subdivision & Development Ordinance  
(Amendments Through ~~June~~ August 21, 2017~~21~~)

Where proposed streets are extensions of existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

8. *Street signs.* All streets within a development shall be marked with a street name sign of a design specification and location in accordance with the *Cumberland County Street Sign Specifications Manual* and approved by the Planning & Inspections Department.

9. *Half streets.* Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated or shown as an easement for conditional future dedication within the new subdivision or other development. New half streets are prohibited except when essential to the reasonable progression of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.

10. *Street design.*

a. *Right-of-way.* Proposed street right-of-way shall be of sufficient width to meet the requirements of the specifications of the NCDOT.

b. *Median strips.* Where a subdivider elects to construct a street divided with a median strip, the right-of-way width shall not be less than 70 feet, and no median strip shall be less than ten feet wide.

c. *Corner radii.* Property lines at street intersections shall be rounded with a radius of 25 feet.

d. *Intersecting streets.* Streets shall be laid out so as to intersect as nearly as possible at right angles.

e. *Street offsets.* Where there is an offset in the alignment of a street across an intersection, the offset of the center lines shall not be less than 125 feet.

f. *Block lengths.* Block lengths generally shall not be longer than 1,800 feet; provided that where a longer block will result in less traffic through residential developments from adjoining businesses or areas, the Planning and Inspections Director may approve block lengths in excess of 1,800 feet.

g. *Public, Class "A" and "B" private street ending.* All streets not stubbed to adjacent properties for future development shall be ended with either a cul-de-sac or a hammerhead ("t-type") turnaround. Streets ending with a cul-de-sac or hammerhead shall not be longer than 1,400 feet. Cul-de-sac shall be designed at the closed end with a circular turnaround having an outside roadway diameter of at least 70 feet and a right-of-way line diameter of at least 100 feet. Hammerheads shall be designed at the closed end with a "t-type" turnaround having a minimum outside dimension of 50 feet by 100 feet and a roadway dimension of 20 feet by 70 feet and a 15 foot radius is required at the intersecting lines of the "t-type" ending. Alternative types of turnarounds as approved by the NCDOT may be approved if the design provides for adequate maneuvering of emergency and other public use vehicles.

(Amd. 12-19-11)

h. *Alleys.* A reservation or easement for an alley to the rear of proposed lots may be approved provided that the developer can produce satisfactory evidence at the time of the preliminary plan submission to show that the alleys will be functional and be designed in such a manner as to allow for public services to be accomplished. When serving four or less residences, any alley proposed shall provide a minimum width of 12 feet. When serving five or more residences and/or non-residential uses, any alley proposed shall provide a minimum alley width of 20 feet. The Planning and Inspections Staff shall review development plans that include alleys for vehicular safety. Alleys shall be approved and maintained the same as common areas within a development and require the County Attorney's approval of owners' association documents and covenants with respect to maintenance and liability of any alley.

B. *Public streets.*

1. *Construction.* All public streets shall be constructed according to the standards and specifications of the NCDOT and this ordinance.

2. *NCDOT Approval and Acceptance.* All public streets shall be certified by the NCDOT as being acceptable for future maintenance by the State, provided that other conditions for acceptance and maintenance are met. Until such time that the NCDOT accepts the public street for maintenance, the developer and subsequent purchasers shall be responsible for maintenance and for securing final acceptance by the NCDOT.

It shall be the responsibility of the developer to formally notify the NCDOT's District Engineer and initiate the process of transferring the responsibility of road maintenance. If application to the District Engineer has not been formally submitted and any deficiencies noted by the NCDOT resolved by the time the County has issued building permits for 80% of the lots shown on the preliminary plan as submitted and conditionally approved, the County shall not issue any additional building permits until the District Engineer formally notifies the Planning and Inspections Department of the NCDOT's receipt of such application and their satisfaction of any noted deficiencies impeding the NCDOT's acceptance of the streets.

If all roads within the subdivision or other development have not been applied for the NCDOT's consideration for addition to the State system by the time at which building permits have been issued for 80% of the lots of the conditionally approved preliminary plan, the developer may post a surety performance bond or an equivalent security as authorized in Section 2502. Should this alternative be used, the method of payment chosen shall be equal to 1.25 times the cost of installing all remaining required improvements according to the standards required by the NCDOT. Within 30 days after the Planning and Inspections Department receives formal notice of pending acceptance of the roads by the NCDOT, the County shall release any unused portion of the securities posted through this procedure.

For purposes of this ordinance, "road maintenance" shall mean that the public streets are kept in a good state of repair and that the streets are able to be used for their intended purpose without any impediments. The developer and future purchasers shall not install or allow to be installed any items within the right-of-way which will have to be removed prior to the acceptance of the roads by the NCDOT. Such items include but are not limited to fences, masonry mailbox supports, shrubbery, and driveway markers.

(Amd. 12-19-11)

3. *Gradient, curves and alignment.* Street gradient, reverse curves and horizontal alignment shall be in accordance with the standards and specifications of the NCDOT.

4. *Curbs and gutters.* All curbs and gutters installed shall meet the NCDOT approved standards and specifications.

(Amd. 03-19-12)

C. *Private streets.* Private streets will be permitted to serve as access within subdivisions or other developments; however, dedication of public streets and other rights-of-way or easements may be required if such are indicated on the official plans as adopted by the County Board of Commissioners, a governing body of a municipality in Cumberland County or the Planning Board. Public streets and/or other rights-of-way or easements or public access over private streets will be required where the Planning Board, the NCDOT, or public utility agency determines that such are necessary in order to

promote the continuity of existing streets or utility systems or otherwise protect and promote the public health, safety and welfare.

1. *NCDOT specifications.* Unless otherwise approved, the developer shall reserve enough area along all private streets to meet NCDOT specifications for right-of-way width requirements on secondary roads. Except for Class “C” private streets, the land area within the private street right-of-way as is required to be reserved may not be used toward lot area requirements. The area within any private street right-of-way, regardless of class or type of street shall not be included in any required yard space.

(Amd. 10-15-12)

2. *Access to government agency.* In any subdivision or other development where private streets are provided, the developer shall prepare for Planning and Inspections Department approval and record in the County Register of Deeds, a plat of such development indicating all private streets. It shall be indicated on such plat that any governmental agency or personnel or equipment thereof shall be granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible and that any agency or organization designated by a governmental agency to perform a designated function shall also retain access the same as any governmental agency. It shall be indicated on such plat that any agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way or easements.

3. *Upgrading street classification.* If a division of the same or adjacent lands previously approved under this section occurs which could change the status of the street to A, B or public street classifications, the entire street must be upgraded to the applicable higher standard. The individual desiring to create the additional divisions of land shall be responsible for the upgrading of the streets to the higher classification after giving notice to and receiving agreement from the affected property owners.

4. *Minimum design specifications.* The following specifications shall be the minimum accepted for private streets and must be completed or guaranteed to be completed in accordance with Section 2502, prior to submission for final plat approval. In all subdivisions or other developments, minimum asphalt paving and/or base construction is required at least to the minimum standards of the NCDOT for residential streets.

a. *Class “A” private street specifications:*

(1) All street construction, surfacing and drainage standards shall meet or exceed the NCDOT’s design specifications for residential streets;

(2) No area of any lot shall be included in the right-of-way easement;

(3) Street(s) shall be maintained by an established owners' association, as approved by the County Attorney and supported by recorded legal documentation addressing a street maintenance agreement;

(4) There is no limit to the number of lots to be served by this street classification;

(5) Clearing and grubbing shall be completed five feet of each edge of the surfaced travel way; and

(6) When curb and gutter sections are omitted, 45 foot right-of- way must be provided.

*b. Class "B" private street specifications:*

(1) All street construction and drainage standards shall meet or exceed the design specifications of the NCDOT for residential streets with a rural cross-section and with the appropriate amount of either "crusher run" or gravel as certified by a professional engineer and shall provide a minimum of a 45-foot right-of-way;

(2) Street(s) shall be maintained by an established owners' association, as approved by the County Attorney and supported by recorded legal documentation addressing a street maintenance agreement;

(3) All such private streets shall connect to a state-maintained road or an approved Class A private street;

(4) Clearing and grubbing shall be completed five feet of each edge of the travel way;

(5) May serve a maximum of eight lots; and

(6) Group developments as approved under the terms of this ordinance shall be limited to a maximum of two units per lot.

*(Amd. 12-19-11)*

*c. Class "C" private street specifications:*

(1) A minimum passable travel way 20 feet wide shall be provided within a 30-foot easement;

(2) An adequate drainage system shall be constructed in accordance with the storm drainage plan designed by the registered engineer/surveyor;

(3) All such private streets must directly connect to a paved state-maintained road or a Class "A" private street;

(4) May serve a maximum of four lots;

(5) Group developments as approved under the terms of this ordinance shall be limited to a maximum of two units per lot;

(6) Property lines shall be included in the street easement;

(7) Clearing and grubbing will be completed five feet of each edge of the travel way;

(8) *Repealed*; and

(9) Private streets approved under this classification shall be terminated with either a cul-de-sac or hammerhead (t-type) of sufficient size to afford emergency and other public vehicles adequate maneuvering area for turning around.  
(Amd. 12-19-11)

5. *Repealed*.

6. *Flag lots*. For Class "B" and "C" private streets, flag lots into the street right-of-way to the public street shall count as a lot being served for access purposes by such private street.

7. *Private street certification of construction*. Upon completion of construction of any private street and the related facilities including drainage ways, the developer shall provide for an inspection of all such facilities by a registered surveyor or engineer, who shall provide in writing a statement that all private streets and related facilities are constructed in accordance with the provisions of this ordinance and that all such facilities are adequate to serve the development. Such statement shall be affixed with the engineer's or surveyor's seal and submitted to the Planning and Inspections Department prior to the recording of the final plat or release of any construction guarantees as required under Section 2502. Upon receipt of the certification of construction and after the initial approval for recording of the final plat, the County has no enforcement responsibility as related to maintenance and encroachments within the right-of-way of any private street.



8. *Private street deed disclosure.* Every deed created for a lot served by a private street within the jurisdiction of this ordinance and to be filed with the County Register of Deeds shall include the following disclosure: “It is hereby acknowledged that a *Subdivision Streets Disclosure Statement* has been executed in accordance with N. C. GEN. STAT. § 136-102.6.”

#### **SECTION 2305. SIDEWALKS.**

A. Sidewalks shall be required to be constructed when any subdivision or other development proposed is adjacent to an existing public school or public park property, the developer shall construct and dedicate to the affected public agency a walkway (sidewalk) not less than ten feet in width in such a location as to facilitate direct convenient access to the adjacent school or park.

B. Any required sidewalk shall be constructed with concrete or other approved surface material and shall comply with the provisions of the *Americans with Disabilities Act* standards. The required sidewalk shall be constructed with a minimum width of 36 inches, a minimum of four inches thickness for areas subject to pedestrian traffic, a minimum of seven inches thickness for areas subject to vehicular traffic, joints spaced every three feet, and a minimum 3,000 PSI compressive strength.

(Amd. 12-19-11)

#### **SECTION 2306. UTILITIES.**

A. *Water and sewer.* Where water and/or sewer systems are to be installed as part of the development improvements, such systems shall be designed and installed in accordance with the standards and specifications of the County Health Department and/or the provider responsible for the approval of such systems.

1. *Public water and sewer systems.*

a. *Generally.* Where the installation of public water and/or sewer systems is prerequisite to approval of lot sizes and standards, such systems shall be installed and certified prior to final plat approval or assured to be installed in accordance with the provisions of Section 2502.

b. *Connection to public water and sanitary sewer required.* When not predicated upon a prior mandatory annexation policy and where any portion of a subdivision or other development submitted for approval under the terms of this ordinance or the County Zoning Ordinance proposes two to ten lots or units is within 300 feet of public water or sewer, the public utilities shall be extended and connected. Where any portion of eleven to twenty lots or units is within 500 feet of public water or sewer, the public utilities shall be extended and connected. For more than twenty lots or units proposed within the Sewer Service Area and/or and where density is greater than two lots or units per acre, the extension of and connection to public water and sewer service is required. Sanitary sewer service outside of the Sewer Service Area requires approval in accordance with the terms of any interlocal agreement officially adopted by the Board of Commissioners.

(Amd. 12-19-11)

c. *Exception to public water and sewer extension/connection.* The Planning and Inspections Director shall exempt connection to a public water and/or sewer system when any of the following conditions warrant:

- (1) Public sanitary sewer is within a different drainage basis or sub-basin;
- (2) The public utility is located beyond the jurisdiction of the Planning Board, and the public utility provider will not agree to extend service;
- (3) Crossings of Rockfish Creek, Lower Little River, South River, Cape Fear River, controlled access highways such as Interstate 95, Business 95 and the Fayetteville Outer Loop;
- (4) Extensions exceeding 2,000 feet from existing public services; or
- (5) Property is located outside of the County's or a municipal government's approved utilities plan.

(Amd. 12-19-11)

2. *On-site water and sewer systems.* When proposing lots or units to be served by on-site private water and/or sewer systems, the lot shall be of sufficient size to accommodate the utilities and providing for adequate building area. When either or both of such systems are proposed to be used, every plat must have a certification or disclosure as required by in Section 2504. Every deed created for a lot or unit to be served by an on-site water and/or sewer system within the jurisdiction of this ordinance and to be filed with the County Register of Deeds shall include the following disclosure:

“Public water and/or sewer services are not available, as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the HealthDepartment.”

B. *Fire hydrants.* Fire hydrants are required when a subdivision or other development with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and when subject to the provisions of this ordinance or the County Zoning Ordinance is to be served by extension of a public water system where the provider is capable of supplying sufficient water pressure to operate the hydrants. The following are the minimum standards for hydrant installation:

1. Fire hydrants shall be located no more than 1,000 feet apart and at a maximum of 500 feet from any lot or unit;
2. Each fire hydrant shall have the minimum main supply line as required by the provider to adequately provide the appropriate amount of pressure to the hydrant;
3. Fire hydrants shall be maintained by the entity supplying water thereto; and
4. Standard hydrant design (National Standard Thread, 4½-inch steamer, (2) 2½-inch discharge connections, etc.) and proper maintenance shall be utilized.

(Amd. 12-19-11)

C. *Underground utilities required.* All subdivisions and other developments shall have utilities placed underground where practical. High voltage electrical lines as defined are exempt from this requirement.

D. *Stormwater.* New subdivisions and other developments that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the Post-Construction Stormwater Management Permitting Program administered by the Division of Water Quality, N. C. Department of Environment and Natural Resources (NCDENR).

#### **SECTION 2307. OTHER REQUIREMENTS.**

A. *Required drainage.* Drainage systems shall be installed by the developer in accordance with the NC Carolina Department of Transportation (NCDOT) standards and specifications and in accordance with the NC Department of Environmental and Natural Resources' (NCDENR) *Manual on Best Management Practices* (BMP).

B. *Monuments.* Monuments of a permanent material shall be installed in accordance with the ~~N. C. GEN. STAT. § 39-32.1 et seq., and at such points as may be consistent with~~ good surveying/engineering practices [set forth by the NC Board of Examiners for Engineers and Land Surveyors \(NCBELS\)](#).

C. *Removal of rubbish.* All cut or fallen trees, stumps or rubbish shall be completely removed from the subdivision or development site.

D. *Watercourse protection.* During the construction, preparation, arrangement, and installation of improvements and facilities in subdivisions or other developments located at or along a watercourse, the developer shall maintain the watercourse in an unobstructed state and shall remove from the channel and banks of the watercourse all debris, logs, timber, junk and other accumulations of nature that would, in time of flood, clog or dam the passage of waters in their downstream course; provided that installation of appropriately sized stormwater drains, culverts, bridges, levee systems or closure structures in a levee system shall not be constructed as obstructions in the stream.

#### **SECTION 2308. PARKS, RECREATION AND OPEN SPACE.**

Every newly proposed residential dwelling lot or unit shall provide a portion of land for the purpose of providing park, recreation and open space areas. For purposes of this section, the terms “recreation area” includes park, recreation and/or open space areas.

Whenever this section provides for the exercise of discretion by the Planning & Inspections Director, the Parks and Recreation Director, or an affected jurisdiction, such discretion shall be exercised consistent with the facts, policies and objectives set forth in the officially adopted Parks and Recreation Master Plan as it affects from time to time.

Any portion of a subdivision or other development that lies within an area designated in the officially adopted Parks and Recreation Master Plan or other officially adopted open space/greenway plan (not exceeding the amount required to be dedicated) shall be included as part of the area set aside to satisfy the recreation area requirements of this section. This area shall be dedicated to public use.

A. *Amount of land.* The amount of park, recreation or open space area shall be 800 square feet per dwelling lot or unit. The affected governing body must approve water bodies offered to a public entity for meeting these requirements. The recreation area may include a combination of land above the SFHA, land in the SFHA, water bodies within the development. Land area offered that contains five acres or more and is consistent with the adopted Parks and Recreation Master Plan must be accepted by the affected jurisdiction.

Recreation areas shall be of such dimensions as to be functionally useable and maintainable. Subdivisions or other developments that would require less than 25,000 square feet of recreation area may pay a fee in lieu of and be exempt from providing on-site recreation area when the Parks and Recreation Director determines that:

1. The onsite recreation area cannot be combined with such areas serving adjacent property to form a functionally usable and maintainable area; or

2. The recreation needs of the subdivision or other development can be adequately met by existing or planned public recreation areas. In determining the size of a subdivision or other development for purposes of this section, the Planning and Inspections Staff shall consider the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the subdivision or other development is constructed in phases or sections. The developer of any subdivision or other development that is exempt from providing on-site recreation area shall pay a fee to the affected jurisdiction in lieu thereof to be used to acquire recreation areas for any park type listed in the Parks and Recreation Master Plan to benefit the residents of the general area.

*B. Standards for recreation areas.* All recreation areas shall meet the standards established in the Parks and Recreation Master Plan unless waived by the Planning Board with a recommendation from the Planning & Inspections Director. These standards are as follows:

1. *Unity.* The dedicated land shall be a single parcel of land, whether or not the subdivision or other development is developed in phases or sections, except if the Planning & Inspections Director determines with a recommendation from the Parks and Recreation Director that multiple parcels would better serve the residents of the subdivision or other development and the public.

2. *Usability.* A maximum of one-half of the recreation area may be water. When one-half of the area offered is water, the remaining land must be useable land for a park. The usability of recreation area shall be determined by the Planning & Inspections Director, with a recommendation from the Parks and Recreation Director. The governing body of the affected jurisdiction shall make the final decision.

3. *Shape.* The area not water or wetland shall be of such shape to be usable for recreation facilities, including, but not limited to, tennis courts, swimming pools, clubhouses, athletic fields, basketball courts, swings, slides, play apparatus, open play areas or picnicking, etc.

4. *Location.* The offered land shall be located to reasonably serve the recreation

area needs of the residents within the subdivision or development. The Planning & Inspections Director, with a recommendation from the Parks and Recreation Director, may require that the recreation area be located on the periphery of the subdivision or development in order to allow its enlargement by combining the recreation area with that of adjacent subdivisions or other developments; when adjacent property is publicly owned; or when there are officially adopted plans that identify the area as future recreation area to be acquired by the affected jurisdiction. The affected jurisdiction's Parks and Recreation Director, with final approval from its governing body, may negotiate the location of the land or fee when it is deemed in the best interest of the immediate residents and that jurisdiction's long-range parks and recreation plan. This may include exchanging larger, more economical tracts of land offsite from the subdivision or other development for the tract within the subdivision or development. This shall only be allowed when there is sufficient park and recreation area to meet the needs of the affected subdivision or development's residents.

5. *Access.* All dwelling units in the subdivision or development shall have free, easy and convenient ingress and egress to and from recreation area within the subdivision or development via streets or public walkways or trails, with one access being a minimum width of 20 feet. Typically, recreation area should be accessible from a public street. -of-way for this access shall be shown on the preliminary plan. Recreation areas that do not have frontage on a public street but are adjacent to an existing public recreation area that has such access shall be exempt from this requirement.

6. *Landscaping.* Recreation areas shall have a sufficient natural or manmade buffer or screen to minimize negative impacts on adjacent residents.

7. *Additional minimum standards for public dedication of land.* In addition, all land area dedicated to the public must meet the following:

(a) Must not be a former site of or contain any remains of hazardous materials; and

(b) If the recreation area is to contain a developed facility, the facility and the recreation area must be approved by the affected governing body.

*C. Procedures for the dedication of recreation areas.*

1. *Designation of land to be dedicated.* The developer, on its submitted residential preliminary plan, shall indicate at that time its intent to dedicate land for public use, convey land to an owners' association or pay a fee in lieu thereof. The developer shall also designate on its preliminary plan the area or areas to be dedicated for recreation. If the developer intends to convey the recreation area to an owners' association, the area(s) to be designated shall also be labeled as "common area" on the preliminary plan and final

2. *Review of land to be dedicated.* The Planning and Inspections Staff shall submit a copy of the preliminary plan to the affected jurisdiction's Parks and Recreation Director. The Parks and Recreation Director shall submit recommendations concerning the land to be dedicated or conveyed, to the Planning and Inspections Staff within five working days after receipt of a preliminary plan proposing less than 50 lots or units. Where the preliminary plan proposes 50 or more lots or units, the response time for the Parks and Recreation Director is to be ten working days.

3. *Ownership.* The developer shall designate the entity owning land to be used for recreation area subject to approval from the Planning Board. Such entities may include, but shall not be limited to, the following:

(a) The County of Cumberland for use by the Fayetteville-Cumberland Parks and Recreation Department, subject to approval and acceptance by the County Board of Commissioners;

(b) Any municipality having jurisdiction over the tract, whether within its boundary or not, subject to acceptance by the governing body of the municipality;

(c) Other public jurisdictions or agencies, or nonprofit organizations, subject to agreement of the governing body; and

(d) Owners', condominium or cooperative associations or organizations.

4. *Required conditions of owners' associations.* Owners' associations or comparable legal entities that own and maintain recreation areas shall be established so that:

(a) The association or comparable entity is established prior to any lot or unit in the development being sold or any building being occupied. All legal documents regarding the association such as incorporation documents, by-laws, and covenants shall be approved by the County Attorney prior to final plat approval of any portion of a development approved under this section;

(b) Membership must be mandatory for each lot or unit owner and successors in interest;

(c) The association shall be responsible for providing liability insurance, if any, and maintenance of the common areas;

(d) Any sums levied by the association that remain unpaid shall become a lien

on the applicable lot or unit owner's property;

(e) If all or any portion of the common area held by the association is disposed of or if the association is dissolved, the recreation areas shall be first offered to the affected public jurisdiction or to any entity described in "Ownership" (sub-section 3) above; and

(f) The right to use the recreation area shall be an easement appurtenant in favor of each lot or unit owner, and their respective invitees, of the subdivision or development in good standing with the owners' association.

5. *Maintenance or areas.* The entity described in "Ownership" (sub-section 3) above shall be responsible for the continuing upkeep and proper maintenance of the recreation area.

6. *Provisions for payment in lieu of dedication.* When the Planning & Inspections Director determines that the recreation area needs of a development can be met by existing or proposed public community, regional or other park type classified in the Parks and Recreation Master Plan the Planning and Inspections Director with a recommendation from the affected jurisdiction's Parks and Recreation Director may allow the developer to pay a fee to the affected jurisdiction in lieu of dedication. The Planning and Inspections Director may also allow, with a recommendation from the affected jurisdiction's Parks and Recreation Director, a combination dedication/ conveyance and partial payment in lieu of dedication when the Director determines that it would be in the best interest of the residents of the subdivision or development and the public. The affected jurisdiction's governing body shall make the final decision.

(a) *Procedure.* The developer shall indicate on its preliminary plan application its request to make a payment in lieu of dedication. Upon receipt of the preliminary plan, the Planning and Inspections Director shall submit a copy of the preliminary plan to the affected jurisdiction's Parks and Recreation Director. The Parks and Recreation Director shall submit a recommendation to the Planning and Inspections Staff within five working days after receipt of a preliminary plan proposing less than 50 lots or units. Where the preliminary plan contains 50 or more lots or units, the response time for the Parks and Recreation Director is to be ten working days.

(b) *Amount of payment.* The fee in lieu of dedication shall be based on the required acreage in square feet times the raw land value as assessed for property tax purposes. If the developer disagrees with the Planning and Inspections Director's findings, the developer may appeal to the Planning Board for final disposition.

(c) *Use of payments in lieu of dedication.* All monies received as fees in lieu of dedication shall be used only for the acquisition of the closest un-purchased recreation



area for any park type as recommended in the officially adopted Parks and Recreation Master Plan that will serve the residents of the subdivision or development.

(d) *Required payment in lieu of dedication.* If land offered as required recreation area is inconsistent with the long-range plans for recreation space serving the needs of residents of the subdivision or development and the general area, as reflected in the officially adopted Parks and Recreation Master Plan or policies, the Planning and Inspections Director, with a recommendation from the affected Parks and Recreation Director, may require payment in lieu of dedication or conveyance. The Planning and Inspections Director may also require a fee in lieu of dedication or conveyance when the area offered is less than one-half acre in size, with the recommendation of the affected jurisdiction's Parks and Recreation Director. Where the preliminary plan does not indicate designated park, recreation or open space areas, the presumption shall be that the developer intends to pay a fee in lieu of dedication.

(e) *Time of payment.* A payment in lieu of dedication must be made with or prior to submission for final plat approval. If the subdivision or development is constructed in phases or sections, a payment relating to each phase or section must be made with or prior to submission for final plat approval for each phase or section.

(This page intentionally left blank.)

## ARTICLE XXIV SPECIAL DEVELOPMENTS

### **SECTION 2401. GROUP DEVELOPMENTS.**

The site plan for group developments shall show the locations and sites of buildings, streets, drives, alleys, parking, recreation areas, signs, loading berths, yards and other open spaces, and shall be in accordance with the following specifications:

A. *Lot area.* The plot area per dwelling unit, excluding the area of publicly dedicated rights-of-way within the development, shall be as permitted by the County Zoning Ordinance.

B. *Yard setbacks.* Each building on the periphery of a group development shall observe the minimum yard setback requirements for the district in which the development occurs. The judgment of the Planning Board as to what constitutes the front, rear and side yards of each building in the group development shall be final.

C. *Building separation.* Buildings within group developments under single ownership shall be separated by a minimum distance of 20 feet plus ten feet for each story above two stories. In no case shall any part of a principal residential building be located closer than 20 feet to any part of another principal building.

D. *Street access.* The property to be developed must have a boundary line or lines contiguous with and giving direct vehicular access to and from one or more public streets, or private streets with public access approved in accordance with Section 2304. Group developments in the form of apartment complexes or unit ownership developments with owners' associations legally obligated to maintain vehicular access and circulation drives shall not be subject to the private street standards specified in Section 2304.

E. *Dedication/Reservation of right-of-way.* Where official plans show future streets or thoroughfares or where reasonable access to adjoining property is required, the development will be designed so as to provide right-of-way for such future streets or thoroughfares and to give access to such properties by means of a public street dedication, if the development is such that requires a final plat to be prepared and recorded, or where no final plat is required, the land area within the right-of-way shall be reserved. No portion of the land area contained within the reserved or dedicated right-of-way may be used to satisfy calculation for density or other dimensional requirements.

F. *Off-street parking.* Off-street parking shall be provided in accordance with applicable zoning regulations. At least three-fourths of the required parking spaces shall be located on the development in off-street parking lots, no part of which shall be located closer than five feet to any existing or proposed street right-of-way line in accordance with the adopted Highway Plan or locally adopted Collector/ Feeder Street Plan. Each space shall be not less than nine feet by 20 feet in area. Compact car spaces may be utilized within a development in accordance with the provisions of the County Zoning Ordinance. Isles adjacent to the compact car spaces shall be standard width, and all compact car spaces shall be clearly marked. One-fourth of the required parking spaces may be in parking bays on minor public streets which are entirely within the development, provided that no space shall be in the turn-around portion of cul-de-sac. Bays shall not be longer than 80 feet along such street lines and each bay shall be separated from any other bay by a distance of not less than one-half the combined width of both bays. No more than one-third of the total frontage of any such street shall be devoted to parking bays. Each off-street parking space for any residential building shall be located within 200 feet of said building.

G. *Swimming pools.* Swimming pools which are constructed within a multi-family development shall be located not less than 50 feet from any boundary of the project, including a public street. All swimming pools shall comply with the provisions of the County Zoning Ordinance.

H. *Recreation/Open space areas.* In residential group developments designated recreation/open space areas and facilities shall be provided on-site in accordance with the provisions of Section 2308 unless the developer can show, and the Planning and Inspections Director agrees after consulting with the Parks and Recreation Director, that the surrounding community has adequate public recreation area available. In the event that adequate public recreation is existing within the surrounding community, the developer shall pay a fee in lieu of providing on-site recreation as allowed in Section 2308. Areas within the required yard setbacks can be counted as part of the required recreation area provided they are developed, which would include tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten percent of the required recreation/open space area. On-site amenities outside the setback area such as indoor recreation centers and clubhouses may be counted to satisfy the provisions of this subsection. Recreation/open space areas dedicated to the public sector shall be subject to all the requirements in Section 2308.

I. *Screening.* All dumpster and utility areas shall be located on concrete slabs and at a minimum, fenced around three fenced sides. Chain link fencing may be utilized, but it must be accompanied with vegetative plantings so planted to effectively screen the dumpster and utility areas

J. All applicable provisions of the County Zoning Ordinance, to include buffers, signage, etc. is to be complied with and evidenced on the siteplan.

**SECTION 2402. ZERO LOT LINE DEVELOPMENTS.**

Zero lot line developments shall comply with all the requirements of group developments when not specified herein and for the purposes of determining compliance with this ordinance and the County Zoning Ordinance, such development plan shall be considered a group development. Zero lot line developments shall be exempt from the minimum lot size provisions of Section 1104 of the County Zoning Ordinance provided that the overall average density of the zoning district in which the development is located is not exceeded. In addition to the provisions for Section 2401 above, the following shall be complied with:

A. *Site plans.* Site plans for zero lot line developments shall show the locations of buildings and/or building sites, streets, drives, alleys, walks, parking, on-site recreation areas (if proposed), yards, the boundary of the development, maintenance easements and all common area.

B. *Building sites.* A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon and shall be sufficient in size to contain the structure proposed and any other proposed components of the property that are to be conveyed. Each building site shall abut and have direct access to a public street, private street or private drive, as permissible by this ordinance.

C. *Building yards.* Building sites, buildings, and accessory buildings thereon, are exempt from all zoning district dimensional requirements of the County Zoning Ordinance for lot width, front yard, side yard, rear yard, and building area except:

1. Buildings have direct access to a public street must meet the front yard and/or corner lot provisions of the applicable zoning district.

2. Buildings on the periphery of the development plan must meet all setback requirements of the zoning district in which the development is located. The judgment of the Planning Board as to what constitutes front, rear and side yard of each building on the periphery shall be final.

3. A minimum of ten foot separation between structures shall be provided for buildings on separate lots within developments that are creating individual "for sale" lots and seeking approval under this section.

D. *Density*. The total number of residential building sites created shall not exceed the density standard for such developments as stated in the district dimensional requirements for the zoning district in which the development is located, excluding public right-of-way and that public right-of-way which is dedicated and/or reserved.

E. *Owners association*. Establishment of an owners' association shall be mandatory when any portion of the development is to be held in common.

F. *Common areas*. All areas of the site plan, other than individual "for sale" lots/units and public rights-of-way shall be shown and designated as "common area", the fee simple title to which shall be conveyed by the developer to the owners' association. Any common area shall not be further subdivided, developed or conveyed by the owners' association, except where approved under the provisions of this ordinance and the County Zoning Ordinance. This stipulation shall be so stated in the declarations and noted on the final plat.

G. *Declaration of covenants and restrictions*. The developer shall file prior to submission for final plat approval of any portion of a development, a declaration of covenants and restrictions governing the common areas, the owners' association and the building sites, if required. The declaration of covenants and restrictions shall be approved by the County Attorney prior to recording of such documents, and prior to final plat approval for any portion or phase of the development. The restrictions shall contain, but not be limited to, provisions for the following as necessary:

1. The owners' association shall be organized and in legal existence prior to the sale of any lot or unit within the development.

2. Membership in the owners' association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit.

3. The owners' association shall be responsible for the provisions of liability insurance, any taxes, and maintenance of recreation area and other facilities located on the common area, payment of assessments for public and private capital improvements made to or for the benefit of the common area located within the development. It shall be further provided that upon default by the owners' association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the common area or assessments for public improvements to the common area, which default shall continue for a period of six months, each owner of a lot or unit in the development shall become personally obligated to pay to the County Tax Assessor a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of lots or units in the development. If such sum is not paid by the owner within thirty days following receipt of notice of the amount due,

then such sum shall become a continuing lien on the lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the County Tax Assessor may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

4. The owners association shall be empowered to levy assessments against the owners of lots or units within the development for payment of expenditures made by the owners association for the items set forth in the preceding paragraph, and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the lot or unit of the owner.

5. Easements over the common areas for access, ingress and egress from and to public streets and walkways, and easements for enjoyment of the common area and for parking areas shall be granted to each owner of any lot or unit within the development, unless expressly stated otherwise and classified as "limited common areas and facilities" with the declaration.

6. Common walls between any units shall be party walls, and provisions for the maintenance thereof, including restoration in the event of destruction or damage, shall be established within the covenants.

H. *Proof of subordinate mortgage.* The developer shall submit, along with the final plat, documents showing proof that any mortgage on the property or facility is subject to all easements or rights which may be transferred to the individual lot or unit owner or to the owners' association.

I. *Final plat.* A final plat shall be prepared in accordance with Article XV and also include the following:

(1) All building sites (lots/units) numbered with bearings and distances shown for their respective boundaries.

(2) All "common area" labeled as such with the facilities thereon indicated.

(3) Any notes as required under this section, including maintenance easements when required.

(4) An indication as to the location (book and page number) of the covenants and restrictions governing the recorded plat.

J. *Compliance with State law.* In addition to the above requirements, all zero lot line developments shall comply with the pertinent provisions of Chapter 47A of the N.C. General Statutes, as if the applicable provisions of Chapter 47A were incorporated herewith.

**SECTION 2403. UNIT OWNERSHIP (CONDOMINIUM DEVELOPMENTS).**

Before a declaration establishing a condominium development may be recorded in the office of the County Register of Deeds as prescribed in the *N.C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et seq.*), the declaration and plan shall be approved by the Planning and Inspections Department. Such declaration and plan shall conform to applicable subdivision or other development requirements as set forth in this ordinance and the County Zoning Ordinance. In addition, the following requirements shall be complied with:

A. The declaration shall be a complete legal document prepared strictly in accordance with the *N. C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et seq.*) and shall be submitted in final form in three copies to the Planning and Inspections Department at least ten days prior to the submission of the final plat.

B. The final plan of the proposed development shall contain the following particulars:

1. The unit designation of each unit and a statement of its location, approximate area, number of rooms, and/or immediate common area to which it has access and any other data necessary for its proper identification;

2. Description of the general common areas and facilities as defined in the *N. C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et seq.*) and the proportionate interest of each unit owner therein;

3. Description of boundary lines between portions of the structures designed for different ownership;

4. Description of all garages, balconies, patios, etc., which form a part of any unit;

5. Description of any special common areas and/or facilities stating what units shall share the same and in what proportion; and

6. Statement of the purpose for which the building and each of the units are intended and restricted as to use.



C. The recordation of the declaration and plan shall be completed by the developer within one calendar year after approval by the Planning and Inspections Department.

**SECTION 2404. MANUFACTURED HOME PARKS.**

A. *Purpose.* The purpose of this section is to establish regulations and procedures for the initial construction and continued use of manufactured home parks, which is found to be necessary in order to protect the health, safety and welfare of the residents of the manufactured home park.

B. *Application of chapter.* The provisions contained herein are the minimum provisions every manufactured home park plan must comply with prior to allowing for the inhabitation of any manufactured home within the manufactured home park.

C. *Permits required.* It shall be unlawful for any person to construct, maintain or use any lot or other parcel of land within the jurisdiction of Cumberland County for a manufactured home park until application has been made and a permit has been issued by the Code Enforcement Coordinator. No on-site improvements may be made until after a permit has been granted by the Code Enforcement Coordinator in accordance with an approved manufactured home park site plan.

D. *Site plans.* Site plans for manufactured home parks in addition to all items required in Article 2203 for preliminary plans shall show the location of all proposed structures; pedestrian paths, type and location of the perimeter buffer, electric lighting plans, off-street parking areas, drainage facilities, and all other required provisions of this section.

E. *Dimensional criteria.*

1. *Lot area.* The minimum lot area for a manufactured home park shall be one acre, excluding publicly dedicated or reserved right-of-way for streets, and floodplain areas.

2. *Density.* The maximum density of individual manufactured home units within a manufactured home park shall be eight per acre excluding publicly dedicated or reserved right-of-way for streets.

3. *Location of manufactured home spaces.* Each proposed manufactured home proposed to be located within a manufactured home park must be located within a designated manufactured home space as approved on the manufactured home park site plan and every manufactured home space shall comply with the following minimum yard space provisions:

a. All manufactured home spaces shall be designed in such a manner that will allow for each manufactured home space to be a minimum of 25 feet apart longitudinally, 15 feet apart end-to-end or corner-to-corner, and when spaces are designed in such a manner that one space is angled toward another space, 20 feet apart;

b. All manufactured home spaces shall be located a minimum of 25 feet from any permanent building located within the manufactured home park;

c. All manufactured home spaces and structures, including buildings within the manufactured home park shall be located no closer than 25 feet of a public street right-of-way; and

d. All manufactured home spaces shall be located no closer than five feet of the internal drive within the manufactured home park.

F. *Street access.* All manufactured home parks shall have direct access to a public right-of-way. Direct access to any public right-of-way shall not be permitted for any single manufactured home space within the manufactured home park; all manufactured home spaces must be served internally by means of a private drive. Street access and entrance area designs shall conform to the *NC Department of Transportation Policy on Street and Driveway Access to North Carolina Highways* guidelines.

G. *Improvements.* In addition to all applicable improvements required by Article XXIII and the County Zoning Ordinance, the following improvements shall be constructed or implemented prior to application for the final building/park inspection:

1. *Parking.* Off-street parking spaces shall be provided in accordance with the applicable zoning district regulations; however, in no case shall there be less than two off-street parking spaces for each manufactured home space. Parking shall not be permitted on or along the internal drives in manufactured home parks.

2. *Internal drives.* All drives and courts shall be designed with a minimum 30 foot right-of-way and a minimum 20 foot paved traffic area which is adequately drained. Every dead-end drive more than 100 feet in length or serving more than four manufactured home spaces shall be provided with a paved turn-around having a radius of not less than 40 feet for a traffic surface.

3. *Drainage.* The manufactured home park spaces shall be situated on ground that is not designated as a *Special Flood Hazard Area* and designed and graded with drainage facilities installed to transport runoff to an appropriate outfall in such a manner as to comply with the N.C. Department of Environment and Natural Resources' *Manual of Best Management Practices* (BMP) for storm water control. When manufactured home parks abut an existing public drainage system, connection to the public system is mandatory.

4. *Water and sewer.* Every manufactured home space shall be provided with water and sewer services to meet providing agency's standards, if public, or County Public Health Department requirements, and all such plans shall be approved by the appropriate agencies.

5. *Underground utilities.* All wiring serving new or remodeled manufactured home parks shall be placed underground, except as outlined in Section 2306 D.

6. *Lighting.* All interior drives and off-street parking areas within the manufactured home park shall be lighted and in compliance with Section 1102 M, County Zoning Ordinance. The plans for lighting and all other electrical hookups and wiring shall be approved by a County Electrical Inspector.

7. *Trash receptacles/dumpsters.* All manufactured home parks shall provide trash and garbage storage receptacles for each manufactured home space that complies with the standards of the County Department of Solid Waste Management. The manufactured home park owner is responsible for proper storage, collection and disposal of the trash.

8. *Screening.* All dumpster and utility areas shall be located on concrete slabs and at a minimum, fenced around three fenced sides. Chain link fencing may be utilized, but it must be accompanied with vegetative plantings so planted to effectively screen the dumpster and utility areas.

9. *Recreation and open space.* Each manufactured home park shall provide on-site recreation/open space areas to service the needs of the residents of the park complying with the provisions of Section 2308. Irregular shaped areas will be judged for usefulness considering the intent of this ordinance. Each recreation/open space area shall be delineated on the site plan. Areas within the yard setbacks can be counted as part of the required recreation/open space area provided these areas are developed, which could include such items as tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten percent of the required recreation/open space area. No portion of the fifteen-foot perimeter buffer/landscaped area, required below, shall be counted as part of the required recreation/open space area. On-site amenities outside of the yard setbacks, such as indoor recreation centers, clubhouses, etc. may be utilized for calculation to satisfy the recreation/open space area requirements.

10. *Perimeter buffer.* All manufactured home parks shall have a minimum fifteen-foot wide natural or landscaped buffer area around the perimeter of the park, excluding entrance drives within which no temporary or permanent structures shall be permitted. All manufactured home parks shall have a physical barrier (i.e. fencing, hedge, etc.) defining the boundaries of the park. Additionally, if earth berms, fences or walls are located within the buffer area, the buffer width shall not be reduced.

11. *Fire protection.* Fire protection standards shall be provided in accordance with the rules and regulations of the fire district in which they are located. All manufactured home park plans shall be submitted and approved by the County Fire Marshal prior to occupancy.

12. *Pedestrian circulation.* All manufactured home parks shall contain and maintain minimum three-foot wide internal pedestrian paths to central facilities, such as pools, office areas, laundry facilities, recreation areas, bus stops, etc. These paths, at a minimum, shall consist of a top layer of sand, crushed gravel or similar approved material. The location of these paths shall be shown on the site plan. No building/park final inspection can be accomplished until these paths are installed.

H. *Highway Plan.* Any manufactured home park site impacted by a proposed right-of-way shall reserve (or dedicate, if final plat required) the right-of-way up to 80 feet in width. Until the reservation is utilized, the developer is allowed to use the area for manufactured home park development. However, this area shall be designated so that it can exist independently from the remainder of the manufactured home park so that when the roadway construction commences, it will have little impact on the rest of the park.

I. *Manufactured home classification.* All manufactured home park spaces developed and approved after July 1, 1996 shall be restricted to Class A and Class B manufactured homes, as defined by this ordinance.

J. *Replacement homes.* When manufactured home park owners intend to replace a manufactured home, they shall first notify the Code Enforcement Coordinator and stake out the site of the new manufactured home showing the required setbacks, buffers and separation areas.

**ARTICLE XXV**  
**FINAL APPROVAL**

**SECTION 2501. FINAL APPROVAL –GENERALLY.**

*A. Installation/Construction of improvements required.* Before any plat shall be eligible for final approval, the improvements proposed by the developer and required by this ordinance must have been installed or assured to be installed in accordance with the provisions of Section 2502. In addition, improvements meeting or exceeding those standards required by this ordinance and the County Zoning Ordinance shall be installed in accordance with the standards and requirements for acceptance of the N. C. Department of Transportation (NCDOT), the standards of the Environmental Health Department, the standards of the Planning Board, or the officially adopted standards of other public agencies, whichever is applicable.

*B. Final plat.* The final plat shall conform to the preliminary plan as approved. The developer may submit as a final plat that portion of the approved preliminary plan which he proposes to develop immediately, provided that, such action on the preliminary plan by the Planning & Inspections Department (hereinafter “Department”) shall expire and be of no further effect unless the final plat is submitted to the Department for final approval within two years from the date on which preliminary plan approval was granted, or within two years from the date an extension of the preliminary plan approval was obtained.

*C. Final approval required with no final plat required.* For developments not requiring final plat approval, the preliminary approval shall expire and be of no further effect if the development has not been completed or if there are no active open permits within two years from the date on which preliminary approval was granted by the Department, or within two years from the date an extension of the preliminary plan approval was obtained.

**SECTION 2502. FINAL PLAT - GUARANTEES OF IMPROVEMENTS.**

Developers must satisfy one of the following guarantees of improvements prior to submission for final plat approval of any portion of an approved preliminary plan:

A. All required improvements have been installed by the developer in accordance with the requirements of this ordinance and the County Zoning Ordinance; or

B. A surety bond or certified check has been posted by the developer, payable to the County, and against which the County may draw upon default in the installation of all required improvements. The surety bond or certified check along with a sealed estimate of the cost of improvements submitted by a certified engineer or a licensed contractor shall be submitted to the Department. Upon receipt of the surety bond or certified check and the estimate of cost of construction, the Department will submit the surety bond or certified check to the County Attorney for approval of legal sufficiency and to the County Engineer for approval of the estimate. The developer and the Planning & Inspections Director (hereinafter "Director") shall set a reasonable time within which the improvements are to be installed and completed. Unless an extension of that time is granted by the Director and a new estimated date of completion approved, in case of default the County shall cause the improvements to be completed, making use of the certified check or calling upon the surety of the bond; or

C. An irrevocable letter of credit issued by a bank or other lending institution reasonably satisfactory to the County, or a deposit of funds into escrow, may be accepted in lieu of a bond or check subject to the same terms as "b" above; or

D. The Department may approve the initial and succeeding sections of an approved preliminary plan, submitted as a final plat, without installation of improvements or financial guarantee of improvements, but final plat approval of any other section of the development will be withheld until required improvements have been installed as required by this ordinance and the County Zoning Ordinance. Final plats approved under this procedure shall be limited to a maximum of 25 lots or 50 percent of the total number of building lots of the approved preliminary plan remaining prior to submission, whichever is less.

A final plat of the final section of a development submitted under this procedure or a final plat constituting an entire subdivision/development may be of any size and shall be granted final approval only under (a), (b) or (c) above.

### **SECTION 2503. FINAL PLAT – SUBMISSION AND APPROVAL.**

The final plat shall be submitted to the Department in such a form as required below. The Director, or the Director's designee, shall review the final plat for compliance with the provisions of this ordinance, the County Zoning ordinance and other conditions of approval of the preliminary plan. The final plat shall not be approved until the improvements required by the preliminary plan approval or required by this ordinance or the County Zoning Ordinance have been installed or guaranteed to be installed in accordance with Section 2502. The following must be shown on the final plat:

A. *General.* The final plat shall conform to the approved preliminary plan and to the

requirements of North Carolina General Statute 47-30.

B. *Map form.* The final plat shall be submitted as a reproducible map, either original ink on polyester film (mylar), or a reproduced drawing, transparent and archival (as defined by the American National Standards Institute); shall be drawn to a scale of not larger than 20 feet to the inch, and not less than 200 feet to the inch; and shall have an outside margin size of either 18 by 24 inches or 24 by 36 inches. Where size of land areas require, maps may be shown on two or more sheets with appropriate match lines and each section shall contain a key map showing the location of the sections.

C. *Surveyor's certificate.* There shall appear on each final plat a certificate by the person under whose supervision the survey or final plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references and any other recorded data shown thereon; and the ratio of precision before any adjustments. Any lines on the final plat not actually surveyed be clearly indicated and a statement included indicating the source of information. Where a final plat consists of more than one sheet, only one sheet need contain the certification, but all other sheets shall be signed and sealed.

This certificate shall indicate the source of information for the survey and data indicating the ratio of precision of the survey before adjustments and shall be in substantially the following form:

"I, \_\_\_\_\_, certify that this plat was drawn under my supervision from actual survey made under my supervision (deed description recorded in Book \_\_, Page \_\_; Book \_\_, Page \_\_; etc.,) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_, page \_\_; that the ratio of precision as calculated is 1: \_\_; that this plat was prepared in accordance with N.C. GEN. STAT. 47-30 as amended. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_."

(Seal or Stamp) \_\_\_\_\_

Surveyor Registration No.:

Nothing in this section shall prevent the recording of a final plat that was prepared in accordance with a previous version of N.C. GEN. STAT. 47-30 as amended, properly signed and notarized, pursuant to the statutes applicable at the time of the signing of the final plat. However, it shall be the responsibility of the person presenting the final plat to prove that the final plat was so prepared and signed.

D. *Certificate of ownership and dedication.* The following notarized owner certificate shall appear on the final plat along with the owner(s) signature:

"The undersigned hereby acknowledges that the land shown on this plat is within the subdivision regulation jurisdiction of the County of Cumberland and that this plat and allotment is (my or our) free act and deed and that (I or we) do hereby dedicate to public use as (streets, parks, playgrounds, school site, open spaces and easements) forever all areas so shown or indicated on said plat."

\_\_\_\_\_  
Owner's Signature(s)

E. *Director's certificate of approval.* The following certificate shall appear on the final plat with the signature of the Director prior to submission of the final plat to the Plat Review Officer:

"Approved by the Cumberland County Planning & Inspections Department on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_."

Signed: \_\_\_\_\_ (seal)  
Planning & Inspections Director

F. *Plat Review Officer certification.* The Plat Review Officer shall certify the final plat, if it complies with all statutory requirements for recording, with the following certificate on the face of the final plat:

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

"I, \_\_\_\_\_, Plat Review Officer of Cumberland County, certify that the plat to which this certificate is affixed meets all statutory requirements for recording.

Signed: \_\_\_\_\_ (seal)  
Plat Review Officer

Date: \_\_\_\_\_



G. *Certificate of registration.* Space shall be provided on the final plat for the certificate of registration by the Cumberland County Register of Deeds as required by law.

**SECTION 2504. DISCLOSURES REQUIRED.**

A. *Disclosure of private street status.* The following disclosures shall appear on any final plat containing a private street as approved under the provisions of Section 2304, if applicable:

1. *All Private Streets.*

“Cumberland County and other public agencies have no enforcement responsibility regarding maintenance or encroachments into the private street right(s)-of-way as shown on this plat. Private streets are for the use of all owners of property within this subdivision/development and their guests; any governmental agency or personnel or equipment thereof granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible; any agency or organization designated by a governmental agency to perform a designated function shall also be granted access the same as that government agency. Any governmental agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way, or easements.

2. *Class “C” private streets.*

“All current and future owners of the tracts served by and having access to the Class “C” private street(s) shown on this plat are responsible for the maintenance of the Class “C” private street(s).”

3. *Class “B” or “C” private streets, if applicable.*

“All current and future owners of the tracts served by and having access to the Class “B” or “C” private street(s) shown on this plat shall not be permitted to further divide the tracts without upgrading the Class “B” or “C” private street(s) to \_\_\_\_\_ standards.”

B. *Farmland Protection Area disclosure.* All final plats for subdivision or other development located within a designated *Rural Area*, as defined in the Land Use Plan in effect at the time of recordation, and depicted on the Land Use Plan map, or subsequent comparable officially adopted plan and map, shall contain a disclosure notice that states:

“This property or neighboring property may be subject to inconvenience, discomfort and the possibility of injury to property and health, arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides.”

C. *On-site water and/or sewer disclosure.* The following statement shall be on any final plat for property not served by public water and/or sewer, as applicable:

“Individual lots shown on this plat do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private water wells as of the date of this recording.”

D. *Nonconforming structure disclosure.* All structures existing on the subject property at the time of the recording shall be shown on the final plat or the final plat shall include the following certification signed by the owner(s):

“Nonconforming structures have not been created by this subdivision/development/recombination plat.”

E. *Proposed public street disclosure.* When the streets proposed within a subdivision or development do not qualify for acceptance by the NC Department of Transportation for addition to the State system, the following disclosure shall be included on the final plat:

“The streets shown on this plat though labeled as “public” – unless otherwise noted – have not been accepted by the NC Department of Transportation as of the date of this recording. Until such time that the streets are accepted and formally added to the State system, maintenance and liability of the streets are the responsibility of the developer and any future lot owner(s).”

(Amd. 12-19-11)

#### **SECTION 2505. APPROVAL OF PLAT NOT ACCEPTANCE OF DEDICATION**

The approval of a plat pursuant to this ordinance shall not be deemed to constitute or effect the acceptance by the County, other public agency or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

**SECTION 2506. FINAL PLAT – RECORDING.**

The developer or the developer's agent shall record the final plat in the Cumberland County Registry within one year after approval of the final plat by the Director. Failure of the developer or the developer's agent to record the final plat in the Cumberland County Registry within one year after the final approval shall cause such final approval to be null and void and of no further force or effect.

(This page intentionally left blank.)

## ARTICLE XXVI LEGAL PROVISIONS

### **SECTION 2601. WAIVERS.**

The Planning Board may waive the requirements of this ordinance where it finds by resolution that:

A. Because of the size of the tract to be subdivided or developed, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and

B. The public purposes of this ordinance and the County Zoning Ordinance would be served to an equal or greater degree, and

C. The property owner would not be afforded a special privilege denied to others.

In granting waivers [through a quasi-judicial hearing and decision](#), the Planning Board may require such conditions as will secure, in so far as practicable, the objectives of the requirements waived. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth.

### **SECTION 2601.1. VIOLATIONS.**

A. *Statutory authority.* This ordinance may be enforced by any appropriate equitable action, including but not limited to, injunction and abatement, in addition to any other remedy authorized by N.C. GEN. STAT. §153A-123.

B. *Notice of ~~civil-citation~~ violation.* If the Planning and Inspections Director or the Director's designee (hereinafter *Director*) finds that any provision of this ordinance is being violated, the Director 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](#) ~~offender or its agent~~, by certified mail, return receipt requested, or by personal service, a notice of ~~civil-citation~~ [violation](#). [The notice of violation may be posted on the property.](#) The notice of ~~civil-citation~~ [violation](#) shall indicate the nature of the violation and order the action necessary to correct it. The ~~citation~~ [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 Planning Board within ten days from the date of service of the ~~citation~~ [notice of violation](#).

C. *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 2602 below.

D. *Separate offense.* Each day that any violation continues after notification by the Director that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

E. *Appeal of ~~citation~~ Notice of Violation.* If the offender files notice of appeal to the Planning Board 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 Planning Board shall be in writing and submitted in the same manner and cost as for an appeal of a zoning matter to the County Board of Adjustment; however, the time for perfecting the appeal shall be ten days as hereinbefore stated. A violation of this ordinance may not be appealed to the Planning Board if the offender did not perfect an appeal to the Planning Board within the ten-day time period set forth herein.

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 Director may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

(Amd. 12-19-11)

#### **SECTION 2602. PENALTY.**

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. 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. Second and subsequent violations shall subject the offender to a \$500.00 penalty. Nothing in this section shall preclude the enforcement of this ordinance pursuant to the all of the provisions of N.C. GEN. STAT. §14-4 where appropriate.

From and after the effective date of this ordinance, any person who being the owner, or agent of the owner, of land located within the jurisdiction of this ordinance as established in Section 2004, thereafter transfers or sells such land by reference to a plat showing a subdivision or development of land before such plat has been properly approved under the terms of this ordinance and recorded in the office of the Register of Deeds shall be guilty of a misdemeanor. The description of metes and bounds in the instrument of transfer, or other document used in the process of selling or transfer, shall not exempt the transaction from such penalties. The County, through its County Attorney or other official designated by the Board of Commissioners, may enjoin such illegal transfer or sale by action for this jurisdiction.

**State statute reference:** N. C. GEN. STAT. § ~~153A-334~~ [160D-807](#).

### **SECTION 2603. 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, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more article, section, sub-section, sentence, clause, or phrase be declared invalid.

### **SECTION 2604. RESPONSIBILITY OF THE REGISTER OF DEEDS.**

From and after the adoption of this ordinance, or any amendment thereto, by the Board of Commissioners and the filing of a copy with the Commissioners' Clerk, no subdivision plat of land within the County's subdivision and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the Planning and Inspection Department and until such approval shall have been entered on the face of the plat in writing, by the Director of the Planning and Inspections Department. The Register of Deeds shall not file a plat of subdivision land located within the territorial jurisdiction of Cumberland County as defined in Section 2103, which has not been approved in accordance with these provisions nor shall the Clerk of Superior Court order or direct the recording of a plat where such recording would be in conflict with this section.

#### **SECTION 2604.1. AMENDMENT CLAUSE.**

This ordinance, upon its effectiveness as provided by law, amends in its entirety the previously existing Cumberland County Subdivision Ordinance, originally adopted July 1, 1970, including all subsequent amendments to said previously existing ordinance, except where otherwise expressly stated within this ordinance.

**SECTION 2605. 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 19th day of August 2008, and each subsequent amendment to this ordinance shall be effective the day following adoption of the amendment.



**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Parks, Recreation & Open Space Areas (PROSA)	Land area per residential unit*: 1. 500 sq ft if outside SFHA; 2. 1000 sq ft if within SFHA; 3. 2000 sq ft if water body  *May pay fee in lieu  (Sec. 25-33)	Land area per residential unit*: 1250 sq ft**  *May pay fee in lieu  **Water bodies must be approved by the Town  Also see "Group Development" below  [Sec. 86A-501(h)]	Land area per residential unit*: 500 sq ft unit; cannot include any land area subject to flooding or land area used to satisfy any other regulation  *No fee in lieu  Also see "Group Developments" below  [§155.67(H)]	Pending- currently same as County	Land area per residential unit*: 1. 500 sq ft if outside SFHA; 2. 1000 sq ft if within SFHA; 3. 2000 sq ft if water body  *May pay fee in lieu  Also see "Group Developments" below  (Sec. 3.13.1)	Land area per residential unit*: 1. 500 sq ft if outside SFHA; 2. 1000 sq ft if within SFHA; 3. 2000 sq ft if water body  *May pay fee in lieu  Also see "Group Developments" below  (Sec. 3.13.1)	Land area per residential unit*: 800 sq ft**  *May pay fee in lieu  **Water bodies must be approved by the Town  Also see "Group Development" below  (Sec. 408)	Land area per residential unit*: 1. 500 sq ft if outside SFHA; 2. 1000 sq ft if within SFHA; 3. 2000 sq ft if water body  *May pay fee in lieu  Also see "Group Developments" below  (Sec. 313.1)	Land area per residential unit*: 1. 500 sq ft if outside SFHA; 2. 1000sqftif within SFHA; 3. 2000 sq ft if water body  *May pay fee in lieu  Also see "Group Developments" below  (Sec. 313.1)
All Streets (Public or Private)	NCDOT- more restrictive standard applies  Minor & residential streets: 50" min r/w width  Concrete curbs and gutters  [Sec. 25-31(2)]	Town standards & specifications (Sec. 86A-404)  Local streets, min width of 50'  Cul-de-sac: 800' max length; 40' min width; turnaround radius, 50' [Sec. 86A-404(a)(15)]  Block lengths, max of 1800' [Sec. 86A-	Town standards & specifications  Local streets, min width of 50'  Cul-de-sac: 800' max length; 40' min width; turnaround radius, 50'  Streets must be certified by Town as being acceptable for future maintenance (§155.510)	Pending - currently same as County	Town Engineer approval required  Minor T-fare(collector) min width: 60'  Minor T-fare (residential) min width: 50'  Cul-de-sac: 800' max length; 40' min width; turnaround radius, 50' [Sec. 3.17]	NCDOT standards  Minimum width: 50'  Cul-de-sac: 800 max length; 40' min width; turnaround radius, 50' (Sec. 3.17)  Block lengths, max of 1800' (Sec. 3.18)	NCDOT standards w/ Town specified widths dependent upon type of street  Cul-de-sac: 1400' max length; 40' min width; turnaround radius, 50' [Sec. 404(10)]  Block lengths, max of 1800' [Sec. 404(10)f]	NCDOT standards (Sec. 4.1)  Minimum width: 50'  Cul-de-sac: 800 max length; 40' min width; turnaround radius, 50' (Sec. 3.17)  Block lengths, max of 1800' (Sec. 3.18)	NCDOT standards (Sec. 4.1)  Minimum width: 50'  Cul-de-sac: 800 max length; 40' min width; turnaround radius, 50' (Sec. 3.17)  Block lengths, max of 1800' (Sec. 3.18)

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

		404(a)(14)]							
--	--	-------------	--	--	--	--	--	--	--

**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
All Streets (Public or Private), <i>continued</i>					Driveways comply w/ stormwater requirements, pipe min inside diameter 15" w/1'cover (Sec. 3.18)				
Public Streets	NCDOT standards more stringent than Fayetteville's, NCDOT standards apply	Pavement widths: 40' minimum for collector and 30' minimum for minor streets [Sec. 86A- 404(b)]  Greater than 2 units per acre, concrete curb & gutter; equal to 2 units per acre, concrete or rolled asphalt curb & gutter; less than 2 units per acre, NCDOT standards (Sec. 86A- 404(b)(3))	Roadway base to Town required width, surface must be standards of the Town (\$155.510)	Pending - currently same as County	NCDOT Subdivision Roads, Min Construction Standards compliance (Sec. 3.17)  Surfacing required (Sec. 4.1.(c))  Concrete curb & gutter, all new streets - 2 ft rolled or valley type concrete for residential streets and 2 ft,6in. 90 degree vertical high back for non-residential [Sec. 4.1(e)]	Approved by the Town  Roadway surface 2" of I- 2 asphalt with a min. width of 20'  Asphalt curbs and gutters  (Sec. 4.1)	NCDOT standards, approved by the Town (Sec. 404(b)(1))	NCDOT standards, approved by the Town (Sec. 4.1)	NCDOT standards, approved by the Town (Sec. 4.1)
Private Streets	Class A and Class B per County/NCDOT standards;  Class C(dirt) not permitted	Asphalt or other permanent surface private streets w/ a minimum 45' r/w width, 20' minimum travel way		Pending- currently same as County		Paved private allowed for residential developments only  60' minimum r/w w/ 20'	Class A only w/ standards same as County [Sec. 404(c)(4)]	NCDOT standards w/ asphalt curb & gutter  Minimum width, 60' with a 20' travel way	NCDOT standards w/ asphalt curb & gutter  Minimum width, 60' with a 20' travel

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

pavement

way

**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE.	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Private Streets <i>continued</i>		Town street standards  Class B & C (gravel or dirt) not permitted				Ashpalt curbs & gutters  No property lines in r/w (Sec. 4.2)		Owners' association mandatory  No property lines in r/w (Sec. 4.2)	Owners' association mandatory  No property lines in r/w (Sec. 4.2)
Utilities	Same as County [Sec. 25-31(10)]	Same as County [Sec. 86A-406(c)]		Pending-currently same as County	Same as County (Sec. 4.3.i)	Same as County (Sec. 4.3.g)	Same as County [Sec. 406(c)]	Same as County (Sec. 4.3.g)	Same as County (Sec. 4.3.g)
Utility Easements		10' (5' each side of rear lot line or other location where necessary) [Sec. 86A-403(e)(1)]	10' (5' each side of rear lot line or other location where necessary) (§ 155.45)	Pending-currently same as County	10' (5' each side of rear lot line or other location where necessary) (Sec. 3.11)	10' (5' each side of rear lot line or other location where necessary) (Sec. 3.11)	10' (5' each side of rear lot line or other location where necessary) [Sec.403(e)(1)]	10' (5' each side of rear lot line or other location where necessary) (Sec. 3.11)	10' (5' each side of rear lot line or other location where necessary) (Sec. 3.11)
Water/Sewer Extension	Same as County w/in MIA  (Per interlocal agreement - within SSA, public water for 2.2 units per acres, Le., R20; public water and public sewer, greater than 2.2. units per acre	Same as County w/in MIA [Sec. 86A-406(a)(1)2]	Same as County w/in MIA	Pending-currently same as County	Same as County w/in MIA	Same as County (Sec. 4.3.d)	Same as County [Sec. 406(a)]	Same as County (Sec. 4.3.d)	Same as County (Sec. 4.3.d)
Fire Hydrants	Same as County	Single family detached, 500'; multi-family, 400'; commercial, 300'; business district, 250' [Sec 86A-		Pending - currently same as County	Same as County (Sec. 4.3.f)	Same as County (Sec. 4.3.f)	Same as County [Sec. 406(b)]	Same as County (Sec. 4.3.f)	Same as County (Sec. 4.3.f)

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

406(b)(1)]

**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Storm Drainage	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>	Pending- currently same as County	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>	In compliance with NCDENR <i>Manual for Best Management Practices</i>
<p>Sidewalks (complying w/ ADA standards)</p> <p>Note: Sidewalks are only required in the MIA if the affected municipality agrees to be responsible for maintenance of the sidewalks and signs a three-party encroachment agreement w/ the NCDOT</p>	<p>One side of all streets w/in development; along existing collector or arterial street adjacent to development [Sec. 25-61(5)]</p> <p>[Per interlocal agreement, in SSA on one side of collector streets (serves/intended to serve at least 100 dwelling units) and both sides of all thoroughfares]</p>	<p>Both sides of all proposed streets, internal drives for non-residential &amp; multi-family and along existing street(s) adjacent to development; sidewalks standards shall not apply in the Cumberland Industrial Center [Sec. 86A-405]</p>	<p>One side of street, location determined by town building Inspector</p>	<p>Pending - currently same as County</p>	<p>4' wide along all streets whether proposed (new) or existing, except cul-de-sac serving 8 or less lots/units</p> <p>When adjacent to parking area, 6' wide (Sec. 4.3.g)</p>	<p>4'paved sidewalks on one side of all new streets adjacent to curb and gutter (Sec. 4.1.h)</p>	<p>Density equal to or greater than 2.2 units per acre, one side of all streets; when less than 2.2 &amp; greater than 1 dwelling units per acre, required along any abutting minor thoroughfare or higher-class street; when site adjacent to public park/ school; &amp; all non-residential adjacent to minor thoroughfare or higher class street (Sec.405)</p> <p>Sidewalks cannot be located over <b>Town-owned</b> water lines &amp; Town will not accept existing system with sidewalks over</p>	<p>Required when development adjacent to public park or school (Sec. 3.13)</p>	<p>Required when development adjacent to public park or school (Sec. 3.13)</p>

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

lines



**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Group Development Provisions	Same as County	1,250 sq ft per unit  BOC can accept fee in lieu  Parking space size: 9'x20'; compact spaces allowed (Sec. 86A-501)	500 sq ft of recreation area per unit on site, Bd of Aldermen can accept fee in lieu  Parking space size: 9'x20'; compact spaces allowed (§155.53)	Pending - currently same as County	Same as County (Sec. 3.21)	Same as County (Sec. 3.21)	Same as County (Sec. 501)	Same as County (Sec. 3.21)	Same as County (Sec. 3.21)
ZLL Provisions	Same as County	Same as County (Sec. 86A-502)	Same as County (§155.54)	Pending- currently same as County	Same as County (Sec. 3.24)	Same as County (Sec. 3.21.1)	Same as County (Sec. 502)	Same as County (Sec. 3.21.1)	
MHP Provisions	Same as County	Same as County except plan must also be approved by HM Fire Department (Sec. 86A-504)	Min of one acre and max of 8 MHs per acre  Min 3,000 sq ft MH space for each unit  Drives: min of 30' wide w/ paving min 20'  Min 60' frontage w/ direct access on public street Min 140 sq ft concrete or hard surface patio with min 30" wide concrete or hard surface walkway  Must comply with Town	Pending- currently same as County		Same as County (Sec. 3.23)	Same as County (Sec. 504)	Same as County (Sec. 3.23)	Same as County (Sec. 3.23)

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

			landscaping provisions (Chpt 153)						
--	--	--	--------------------------------------	--	--	--	--	--	--

**Exhibit 5 - MIA Development Standards**

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Guarantee of Improvements	Same as County	Same as County (Sec. 86A-602)	Same as County (§ 155.23)	Pending-currently same as County	Same as County (Sec. 2.6)	Same as County (Sec. 2.6)	Same as County (Sec. 602)	Same as County (Sec. 2.6)	Same as County (Sec. 2.6)
Lot Frontage	Same as County	20' minimum [Sec. 86A-403(c)]	35' minimum [§ 155.52(C)]	Pending-currently same as County	20' minimum (Sec. 3.20.c)	20' minimum (Sec. 3.20)	20' minimum\ [Sec. 403(c)]	20' minimum (Sec. 3.20)	20' minimum (Sec. 3.20)
Development Access Points		Two separate access points, generally [Sec. 86A-404(a)(16)1		Pending-currently same as County					
Schools, Parks Public Access		NLT 10' walkways dedicated (Sec. 86-74)	NLT 10' walkways dedicated (§ 155.47)	Pending-currently same as County	NLT 10' walkways dedicated (Sec. 3.13)	NLT 10' walkways dedicated (Sec. 3.13)	NLT 10' walkways dedicated [Sec. 405(a)3]]	NLT10' walkways dedicated (Sec. 3.13)	NLT10' walkways dedicated (Sec. 3.13)
Subdivision Definition	Same as County (effective 1961)	Same as County (effective Jan 1, 1985) (Sec. 86A-203)	Similar to County except: 5 acre tracts (as opposed to 10 acres) where no right-of-way dedication (§ 155.06)	Pending - currently same as County	Same as County (Sec. 1.8)	Same as County (Sec. 1.8)	Same as County (Sec. 203)	Same as County (Sec. 1.8)	Same as County (Sec: 1.8)
Streetscape Landscaping - subdivisions/group developments					Street trees: 1 tree per 50 linear ft of street frontage and no more than 50' separation  Located between back of curb and sidewalk (Sec. 4.3.h)				
Greenway Standards					Compliance w/ Greenway Plan				

August 18, 2008 Cumberland County  
Subdivision & Development Ordinance  
(Amendments Through ~~June~~ August 21, 2017)

ARTICLE XX

ADMINISTRATIVE PROVISIONS

ATTACHMENT B

(Sec. 3.13.2)

Exhibit 5 - MIA Development Standards

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Tree Preservation		Encouraged and can be credited toward landscaping provisions	Encouraged and can be credited toward landscaping provisions						
Exceptions w/in MIA					Concrete curb & gutter not required when 3 or less lots out of same parent and where new street not being constructed or existing street w/o concrete curb & gutter being extended  Greenway standards not applicable where residential does not abut designated Greenway Corridor & where 3 or less contiguous lots from the same parent  Sidewalks not required if 3 or less lots from				

ARTICLE XX  
ADMINISTRATIVE PROVISIONS

ATTACHMENT B

the same  
parent abutting  
street w/o

August 18, 2008  
Cumberland County

Exhibit 5 - MIA Development Standards

DEVELOPMENT STANDARD	FAYETTEVILLE	HOPE MILLS	SPRING LAKE	EASTOVER	STEDMAN	WADE	LINDEN	FALCON	GODWIN
Exceptions w/in MIA <i>continued</i>					existing sidewalks and a new street not being constructed (Sec. 3.1.1)				

**Disclaimer:** The material contained within this document, Exhibit § 4, *Development Standards of All Municipalities within Cumberland County*, is intended to reflect and summarize applicable municipal subdivision design standards and is provided for general reference and informational purposes only and is not to be construed or used in place of the officially adopted development standards for any municipality, nor does it replace any officially adopted development standard of any municipality. While, the information contained herein is believed to be accurate and the County will make every effort to maintain current information in this Exhibit, users of this exhibit should contact the County Planning & Inspections Department to verify the contents before application for any permits.

